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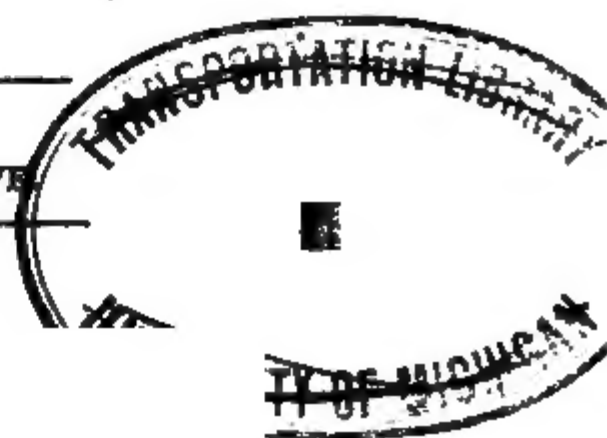
**DOCUMENTS**  
**OF THE**  
**ASSEMBLY**  
**OF THE**  
**STATE OF NEW-YORK,**  
**FIFTY-SIXTH SESSION,**

**1833.**

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**VOLUME III.**  
**FROM No. 126 TO 239 INCLUSIVE**

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**1833.**





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**No. 136.**

# **IN ASSEMBLY,**

**February 14, 1833.**

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## **REPORT**

**Of the select committee, on the petition of the Mayor, Aldermen and Commonalty of the city of New-York, relative to the alteration of certain streets.**

Mr. Ostrander, from the select committee to whom was referred the petition of the mayor, aldermen and commonalty of the city of New-York, for an act to extend Amos-street to the Sixth avenue, and to discontinue Ninth-street and Tenth-street westerly of the said avenue, on the map or plan of the city of New-York,

### **REPORTED:**

That they have had the subject referred to them under consideration. The petitioners represent that they have been applied to by the inhabitants and owners of property interested in the city of New-York, for the extension of Amos-street across a piece of ground formerly Greenwich-lane to Sixth avenue, and also for discontinuing those parts of Ninth and Tenth-streets which run westerly from Sixth avenue to Greenwich-lane.

The petitioners further represent, that they have purchased a piece of ground lying between Greenwich-lane and Sixth avenue, on which they have erected a market fronting on Greenwich-lane, which covers a portion of that part of Ninth-street laid out between the said lane and Sixth avenue, which is proposed to be discontinued. They also represent, that no buildings have as yet been erected with which the continuation of Amos-street will interfere, and that it is deemed advisable to have the proposed improvement carried into effect without delay.

Your committee are satisfied, from the facts set forth by the petitioners, that the prayer of the petitioners ought to be granted, and ask leave to introduce a bill.

[Assem. No. 136.]



**IN ASSEMBLY,**

**February 14, 1833.**

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**LIST**

*Of the several bills reported to the House for the incorporation of banks, with their location, and amount of capitals respectively; furnished pursuant to the resolution of Thursday, the 14th Feb. :*

Herkimer County Bank, at Little-Falls, .....	\$200,000
Cayuga County Bank, at Auburn, .....	250,000
Seneca County Bank, at Waterloo, .....	200,000
Commercial Bank, at New-York, .....	500,000
Chemung Canal Bank, at Elmira, .....	200,000
Sackett's Harbor Bank, at Sackett's Harbor, .....	150,000
Cortland County Bank, at Cortland Village, .....	150,000
Pearl-Street Bank, at New-York, .....	1,000,000
Oneida Bank, at Utica, .....	500,000
Troy City Bank, at Troy, .....	300,000
Mechanics' Bank, at Rochester, .....	300,000
Brewers' Bank, at Albany, .....	350,000
Lewis County Bank, at Martinsburgh, .....	100,000
Clinton County Bank, at Plattsburgh, .....	100,000
Farmers' and Manufacturers' Bank, at Poughkeepsie,	100,000
La Fayette Bank, at New-York, .....	300,000
Le Roy Bank, at Le Roy, .....	150,000
Seventh Ward Bank, at New-York, .....	500,000
Bank of Lyons, at Lyons, .....	150,000
Olean Bank, at Hamilton, .....	100,000
Delaware County Bank, at Delhi, .....	100,000
Fredonia Bank, at Fredonia, .....	200,000
Lumbermens' Bank, at Bainbridge, .....	100,000
	<hr/>
	<b>\$6,000,000</b>



**No. 138.**

**IN ASSEMBLY,**

**January 29, 1833.**

**ANNUAL REPORT**

**Of Richard McCarty, Inspector of Flour in the city  
of New-York, and in the county of Kings.**

**Report of flour and meal inspected in the city of New-York and  
in Kings county, from 1st January, 1832, to 1st January, 1833.**

*Viz: Inspected in the city of New-York, from 1st January, to 16th  
May, 1832.*

170,795 barrels superfine flour.  
5,385 half barrels superfine flour.  
12,320 barrels fine flour.  
148 half barrels fine flour.  
10,257 barrels bad flour.  
4 half barrels bad flour.  
3,153 barrels fine middlings flour.  
1,265 " middlings flour.  
925 " ship stuffs.  
4,128 " rye flour.  
2,775 hogsheads Indian meal.  
2,518 barrels Indian meal.  
51 " buckwheat flour.  
107 half barrels buckwheat flour.

<b>Making 211,087 barrels and half barrels, from 1st of January, to 6th May, 1832, fees at 1½ cents per bbl.</b>	<b>\$3,166 36</b>
<b>2,775 hogsheads, at 4 cents, .....</b>	<b>111 00</b>
	<hr/>
	<b>\$3,277 36</b>
<b>Disbursements for deputies, &amp;c. ....</b>	<b>1,825 00</b>
	<hr/>
	<b>\$1,452 36</b>

*Inspected in the city of New-York, from 16th May, 1832, to 1st January, 1833.*

593,910 barrels superfine flour.  
 19,199 half barrels superfine flour.  
 12,196 barrels fine flour.  
 742 half barrels fine flour.  
 11,339 barrels bad flour.  
 97 half barrels bad flour.  
 4,908 barrels fine middlings flour.  
 4,144 " middlings flour.  
 2,029 " ship stuffs.  
 8,548 " rye flour.  
 4,379 hogsheads Indian meal.  
 10,256 barrels Indian meal.  
 77 " buckwheat flour.  
 137 half barrels buckwheat flour.

Making 667,602 barrels and half barrels from 16th May, 1832, to 1st January, 1833, fees 1 cent per barrel,.....	\$6,576 02
4,379 hogsheads at 3 cents per hogshead,.....	131 37
	<hr/>
	\$6,807 39

Disbursements for inspection, a detailed statement of which is hereto annexed agreeable to act, passed April 26, 1832, is .....	3,145 31
	<hr/>
	\$3,662 08

*Recapitulation in all the year.*

827,277 barrels wheat flour.  
 25,570 half barrels wheat flour.  
 12,676 barrels rye flour.  
 7,154 hogsheads Indian meal.  
 12,774 barrels Indian meal.  
 128 " buckwheat flour.  
 244 half barrels buckwheat flour.

Average value, viz: Superfine flour, per barrel \$6.12, do. half barrel \$3.12; fine flour, per barrel \$5.75, do. half barrel \$2.62; fine middlings, per barrel \$5.44; middlings, per barrel \$5.00; ship stuffs, per barrel \$4.37; rye flour, per barrel \$4.50; bad wheat flour, per barrel \$5.00; hogsheads Indian meal, \$15.50; barrels do. \$3.62; barrels buckwheat, \$4.00; half barrels do. \$2.12.

Total value of flour and meal inspected in New-York in 1832, \$5,312,983.21½.

Inspected in Kings county 4,735 barrels superfine flour; 100 barrels fine flour; fees \$96.70, which has been paid T. Carpenter for his services. Value of flour inspected in Kings county, \$32,972.50.

*A detailed statement of disbursements, by Flour Inspector of city of New-York, from 16th May, 1832, to 1st of January, 1833, made agreeable to act of the Legislature, passed April 26th, 1832, (the law taking effect 20 days after its passage.)*

Paid to C. P. Tappan, deputy inspector, from 16th May, 1832, to 1st January, 1833, 197 days, at \$3 per day, .....	\$591 00
Usually paid once per month, paid balances due him, \$78, 5th January inst.	
Paid to Jno. J. Hicks, deputy inspector, 172 days, at \$3 per day, .....	516 00
Paid once per month, balances of \$67 due him, paid on 7th January inst.	
Paid Daniel Brinkerhoff, 163 days at \$3 per day, ....	489 00
Paid once per month, balances \$73.83, paid 8th January inst.	
Paid C. Garrison, H. Houseman, J. Seymour, C. Cephas, J. Luke, J. Furman, P. Fountain and G. Garrison, (a boy) employed in boring, branding, plugging, and making plugs, .....	1,020 00
Paid once per week.	
Paid Martin & Booth, for brands, augurs, gimblets, &c.	291 68
Paid in June, Nov. and balances of \$89.56, 15th January inst.	
Paid Wm. Cox, for charcoal from 16th May, to 1st January inst. ....	72 99
Paid E. Bill, for rent due 1st Aug. and 1st Nov. ....	50 00
Paid S. Willets, " " " .....	25 00
Paid G. Seaman, " " " .....	25 00
Paid J. Baptiste for furnaces in July and August, ....	9 56
Amount carried forward, .....	\$



Amount brought forward,.....	\$
Paid Spear and Nesbit, for printing bills Sept. 15, ...	7 50
Paid F. Gross, for cedar bolts in Nov. and Dec. ....	15 83
Paid D. Lydig and Son, for barrel of flour for stan- dard, 27th September, .....	5 75
Paid Brinkerhoff, Tappan and Hicks, for filing saws, saw frames, coal baskets. &c. ....	7 75
Paid for stationary and repairs to office, .....	10 00
Paid S. B. Reeve & Co. for Schuylkill coal for office December 18, 1832, .....	8 25
	<hr/>
	<b>\$3,145 81</b>
	<hr/>

**RICHARD McCARTY,**  
*Inspector of Flour for the city  
and county of New-York.*

*City and county of New-York, ss.*

Richard McCarty, flour inspector of said city, being sworn, says the foregoing statement of the receipts and disbursements of said office is correct and true.

**RICHARD McCARTY.**

*Subscribed and sworn to before me,  
this 24th day of January, 1833.*

**E. BARNES,** *Alderman of the city of  
New-York, and Justice of the Peace.*

**No. 139.**

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**IN ASSEMBLY,**

**January 29, 1833.**

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**ANNUAL REPORT**

**Of Henry Howard, an Inspector of Beef and Pork  
in the city of New-York.**

*To the Honorable the Legislature of the State of New-York.*

In pursuance of a law regulating the inspection of beef and pork in this State, I herewith transmit to your Honorable Body a statement of the number of barrels and half barrels of beef and pork, and the qualities of each inspected by me in the city of New-York during the last year, ending December 31st, 1832, viz:

1,489	barrels	mess pork.
1,572	"	prime pork.
2	"	cargo pork.
396	"	clear pork.
415	"	condemned pork, consisting of soft, sour, rusty, tainted, &c.
217	"	mess beef.
542	"	prime beef.
15	"	cargo beef.
39	"	tainted beef,
145	half barrels	mess beef.
30	"	prime beef.

Respectfully submitted.

**HENRY HOWARD,**

*Inspector of Beef and Pork.*

*New-York, January 1st, 1833.*

[Assem. No. 138.]



**IN ASSEMBLY,**

**January 29, 1833.**

**ANNUAL REPORT**

**Of Benjamin Heartt, an Inspector of Leather in the  
city of Troy.**

*To the Honorable the Legislature of the State of New-York.*

I, Benjamin Heartt, inspector of sole leather, of the city of Troy, in the county of Rensselaer, do hereby respectfully certify and report, that since the first day of January, now last past, and up to the first day of January instant, I as such inspector, have duly inspected and marked as follows, viz:

	<i>Weight.</i>	
3,352 sides of good sole leather,	49,148½ at 20 cts.	\$69,829 75
2,217       "       "	88,202       19	6,408 58
20       "       "	268       18	48 24
91 sides damaged sole leather,	1,230½       14	172 27
114       "       "	1,556½       16	249 34
480       "       "	7,209½       17	1,225 57
62       "       "	849½       18	152 86
90 sides of bad sole leather, &c.	1,315       13	170 95
<hr/> 6,426	<hr/> 94,380	<hr/> \$18,257 51
<hr/>	<hr/>	<hr/>

The amount of fees for inspecting, at 3 cents per side, is \$192 78

All which is respectfully submitted.

**BENJAMIN HEARTT,**

*Troy, 28th January, 1833.*

Subscribed and sworn this

28th January, 1833, before me

**NATHAN HOWARD, JR.**

*Commissioner of Deeds, &c. Troy.*



**No. 141.**

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**IN ASSEMBLY,**

**January 29, 1833.**

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**ANNUAL REPORT**

**Of Ebenezer Platt, Inspector of Green Hides and  
Skins in the city of Troy.**

*To the Honorable the Legislature of the State of New-York.*

The undersigned, inspector of green hides and skins in the city of Troy, reports, that he has inspected during the year ending on the first day of January, 1833, one thousand seven hundred and forty hides, and three hundred and fifty eight calf skins, damages charged for cuts or hacks, eighteen dollars and seventy-five cents. Fees allowed by law fifty-five dollars and seventy-eight cents. That at the request of the parties interested, he has weighed all the hides inspected by him, deducting the estimated weight of all bones, filth, or other improper matter attached to them, and furnished the parties an account of the weight and deduction so made, and also the estimated damage by cuts or hacks in the process of skinning. That as far as his experience extends, the effect has been to improve the value of hides, by inducing greater care on the part of butchers in skinning, knowing that carelessness or inattention only injured themselves.

Respectfully submitted.

**EBENEZER PLATT.**





**No. 142.**

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**IN ASSEMBLY,**

**January 29, 1833.**

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**ANNUAL REPORT**

**Of Ebenezer Platt, an Inspector of Leather for the  
city of Troy.**

*To the Honorable the Legislature of the State of New-York.*

The undersigned, inspector of leather in the city of Troy, in the county of Rensselaer, reports, that during the year ending on the 1st day of January, 1833, he has inspected seven thousand two hundred and forty-one sides of sole leather, weighing one hundred and one thousand, four hundred and seventy-one pounds, estimated value, nineteen thousand and fifty-eight dollars and and sixty-seven cents, as follows, to wit:

Stamped good,	6,114,	weight	85,562 lbs.	at 19 cts.	\$16,252 78
“ best,	601,	“	8,524	“ 20 “	1,704 80
“ dam.	512,	“	7,163	“ 15 “	1,074 80
“ bad,	14,	“	222	“ 12 “	26 64
	<u>7,241</u>	<u>weight</u>	<u>101,471</u>		<u>\$19,058 67</u>

Fees received as compensation, two hundred and twenty dollars and fifty-five cents,

Respectfully submitted.

**EBENEZER PLATT.**



**IN ASSEMBLY,**

**February 15, 1833.**

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**CONFIDENTIAL JOURNAL**

**Of the proceedings of the Assembly of the 11th February, 1833, published pursuant to a resolution of the 15th February.**

Mr. Spencer, from the select committee appointed to ascertain the author of a letter addressed to John De Mott, Esq. a member of this House, and to report their opinion as to further proceedings to be had in relation to the said letter,

**REPORTED:**

That the committee have taken the testimony of John De Mott, Ira Tillotson, Thomas Bishop, Daniel B. Swartwood and Joshua Lee, Esquires, members of this House, in relation to the subject on which they are directed to inquire and report to the House, which testimony is reported herewith. The committee are unanimously of opinion, from the evidence adduced, that Alvah Beebe, of Ithaca, in the county of Tompkins, is the author and writer of the letter to Mr. De Mott.

With respect to the further proceedings which should be had, your committee are of the opinion that the letter referred to them contains a direct offer of a bribe to a member of this House, and is an attempt, by corrupt means, directly to influence a member of this House in giving his vote upon an application, then pending in the House, for the incorporation of a bank by the name of the Tompkins County Bank. They think it impossible for any one who reads the letter to give it a different construction: and they can not hesitate to pronounce it a gross and flagrant contempt and breach of the privileges of this House.

The offender appears to be a man of some standing in community, and a sincere and zealous advocate of the application for the Tompkins County Bank; and his offence must therefore, at present, be presumed to be intentional.

Under such circumstances your committee are of opinion that it is due to the purity of legislation, to the character of this House, and to that confidence which the people of this State should repose in the integrity of their representatives, that the offender in the present case should be brought to answer for his conduct, and should be dealt with in such a manner as to repress and prevent similar attempts in future.

The committee, therefore, unanimously recommend to the House the adoption of the following resolutions:

**WHEREAS** it satisfactorily appears to this House by the testimony of John De Mott, Ira Tillotson and Thomas Bishop, Esquires, members of this House, taken on oath, by a select committee, and reported to this House, that Alvah Beebe, of Ithaca, in the county of Tompkins, in the month of January last, addressed an anonymous letter to John De Mott, Esq., a member of this House, requesting his aid in favor of an application then pending for the incorporation of a bank by the name of the Tompkins County Bank, and offering to him ten thousand dollars of the stock of the said bank, and threatening an opposition to other bank applications, in case the said application failed; and whereas, the said letter is an offer to bribe a member of this House, and is an attempt by corrupt means, directly to influence such member in giving his vote upon the aforesaid application, and is a contempt of this House, and a breach of its privileges; therefore

*Resolved*, That the Speaker of this House do issue his warrant to the Sergeant-at-Arms, commanding him to arrest the said Alvah Beebe, and to bring him before this House, to answer for the said contempt and breach of the privileges of this House.

Mr. Speaker put the question whether the House would agree to the said resolution and recital, and it was decided in the affirmative.

*Journal of the select committee appointed by the House of Assembly to ascertain the author of a certain letter to John De Mott, Esq., a member of that House.*

Saturday afternoon, 4 o'clock, the committee convened at Be-ment's Hotel, in the city of Albany.

PRESENT—J. C. Spencer, Thos. Herttell, and Dudley Burwell.

JOHN DE MOTT, Esq. a member of the House from the county of Seneca, being duly sworn, deposes, that a letter now exhibited to him, and which is hereto annexed, marked A, was received by him perhaps about two or three weeks since: it was brought to his room, according to his best recollection, by a servant, but it may have been left on his desk in the House; he has no knowledge of the person who brought the same, nor of the person who wrote it, and there is no circumstance within his knowledge to indicate the author.

Dr. Lee, a member of the House, and of the bank committee, was in the room of witness soon after receiving it, and witness casually mentioned it to him and Mr. Halsey of the Senate, who was present, and showed it to them. The next morning Dr. Lee requested witness to let him have the letter, in order to lay it before the committee, and witness handed it to him, with an injunction that no use should be made of it without the permission of witness. His motive in imposing this condition, was, that he thought the matter too contemptible for notice, and he did not wish to excite attention to himself. The letter was read in the House this morning, without his assent or knowledge.

JOHN DE MOTT.

Sworn Feb. 9, 1833, before me,

J. C. SPENCER,

*Chairman, &c.*

IRA TILLOTSON, a member of the House from the county of Tompkins, being sworn, deposes that he is not sufficiently acquainted with the hand-writing of the letter marked A, hereto annexed, to swear to the same. From a comparison of the hand-writing of the superscription of the letter, with other letters seen

and received by him, he thinks he can recognize the writer. Witness, on being required by the committee, produces a letter which is hereto annexed, marked B, as one of those he has seen, and which he refers to, as being in a similar hand-writing. From a comparison of the writing, he thinks a superscription of the letter to Mr. De Mott, marked A, was written by the same person who wrote the letter marked B., Alvah Beebe. Alvah Beebe resides in Ithaca. He is not in the city of Albany, and has not been during the winter, to the knowledge of witness. Beebe is in the flouring business. Witness has received several letters from Mr. Beebe on the subject of the application for a bank in Tompkins county, and among others, bundles of petitions, some of them sealed and others open, chiefly directed to members of the House. Witness was unacquainted with the contents of those which were sealed. Beebe appears to be a warm advocate for the bank.

IRA TILLOTSON.

Sworn, Feb. 9, 1833, before me,

J. C. SPENCER,

*Chairman, &c.*

THOMAS BISHOP, a member of the House from Tompkins county, being sworn, deposes that he is acquainted with Alvah Beebe; he is not particularly acquainted with the hand-writing of the said Beebe, except what knowledge he has acquired from letters received from him since witness has been attending the Legislature. On examining the superscription of the letter to Mr. De Mott, marked A, witness says, that judging from letters he has seen from the said Beebe, he should think the direction of the letter to Mr. De Mott was in the writing of the said Beebe. Witness cannot say whether the hand-writing inside of the letter is the same as the direction, but has no doubt that a part of it is. He has no doubt, in his own judgment, that the letter to Mr. De Mott is in the hand-writing of Alvah Beebe. Witness received a number of letters, directed to members, under cover of a wrapper, in which was writing in the same hand as the letter to Mr. De Mott, requesting witness to deposit those letters in the post-office, which he accordingly did. Witness does not know that they were all sealed, but those which appeared to have writing on them were sealed. Witness and the other members from Tompkins, were

unacquainted with the contents of the letters thus enclosed to them.

THOMAS BISHOP.

Sworn, Feb. 9, 1833, before me,

J. C. SPENCER,

*Chairman, &c.*

DANIEL B. SWARTWOOD, a member of the House of Assembly from Tompkins county, being sworn, deposes that he has a slight personal acquaintance only with Alvah Beebe, but has had no communication or correspondence with him during the present winter; he has not received any letters from him for distribution or otherwise, and has no knowledge of a letter to Mr. De Mott. Witness saw the letters received by his colleagues, Messrs. Tillotson and Bishop, and knew of their having distributed them, but did not know the contents of any of them. A part of those letters were sealed, and a part of them were not, and witness supposed they were all petitions for a bank at Ithaca. Witness saw some of them, that were of that description; these were not sealed.

D. B. SWARTWOOD.

Sworn, Feb. 9, 1833, before me,

J. C. SPENCER,

*Chairman, &c.*

JOSHUA LEE, a member of the House from Yates county, being sworn, deposes, that in a conversation with Mr. De Mott, at his room, he mentioned having received the letter marked A, and read it to witness. The next morning witness asked Mr. De Mott for the letter, with a view to show it to the bank committee; Mr. De Mott told witness he might have it, but did not wish his name used; that he considered it contemptible, and an imposition on him; witness stated that his object in getting it was to compare the handwriting with other letters on the same subject, to see if the author could be detected. Witness took the letter and handed it to Col. Litchfield, chairman of the bank committee. Mr. De Mott followed witness into the room where he was with Col. Litchfield, and remarked to him that he had no objection to the committee using the letter, but that it was not to be made public without his knowledge and consent. It was left with Mr. Litchfield, who left the city the day the report against the bank was made, and handed



over his papers to Mr. Morris of the bank committee, who probably was not informed of the conditions on which it was left.

JOSHUA LEE.

Sworn, February 9, 1833, before me,

J. C. SPENCER,

*Chairman, &c.*

( A. )

3,000 names.

Dr. General,

I see N. Burgh has a report, which is a similar case to ours; if we do not get one we shall oppose *some others*. Please do all you can for us, and have \$10,000 of our stock; we need more than river counties; facilities, ha? We want your aid, and your name with us. Orange county has two already.

( B. )

Dear Sir,

Permit me to introduce to your acquaintance, Mr. Tillotson, our village member.

I have only to add, that Mr. T. as well as our whole delegation, are firm partisans.

I am, dear sir,

Your ob't serv't,

ALVAH BEEBE.

ITHACA, January 8, 1838.

Hon. M. VAN SCHAICK,

*Albany.*

P. S. We feel indebted to your delegation.

*Resolved*, That the report of the select committee on the subject of a letter addressed to John De Mott, Esq., a member of this House, the documents accompanying that report, and the proceedings of the House thereon, be deemed confidential, and not to be disclosed until so ordered by the House; and that the printing of said report and documents be suspended until otherwise directed.

**No. 144.**

**IN ASSEMBLY,**

**February 15, 1833.**

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**REPORT**

**Of the select committee, on the petition of the  
Washington Monument Association, for an act of  
incorporation.**

Mr. Myers, from the select committee, to whom was referred the petition of the Washington Monument Association, praying for an act of incorporation, whereby they will be enabled to render productive the amount of subscriptions which they may from time to time collect, until a sufficient sum shall be collected to enable them to erect a suitable monument, on such site as may be selected by the common council of the city of New-York, to the memory of the venerated and deceased President, George Washington, the father and defender of these United States,

**REPORTED:**

That there are many names attached to the application of those who fought by the side of that venerated chieftain, and assisted in achieving the independence which we now enjoy. Your committee are of the opinion that to such applicants no reasonable request should be denied. In addition there are many of our most liberal and respected citizens, who are engaged in raising a voluntary subscription to the amount of one hundred thousand dollars, to enable them to carry into effect the object they have in view. Without expressing an opinion as respects the necessity or utility of erecting a monument to the memory of him who fills so large a space in the history of our country, and whose memory and exploits will live in history to the latest posterity, your committee are of the opinion that the erection of monuments to the memory of the illus-

trious dead, should not be discouraged, because they tend to shew to after ages the state of the arts in our country, at the time of their erection, and furnish an evidence of the munificence and gratitude of those who erect them. Under these considerations the committee have directed me to ask leave to introduce a bill.

**No. 145.**

**IN ASSEMBLY,**

**January 30, 1833.**

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**ANNUAL REPORT**

**Of John Bagley, Inspector of Sole Leather in the  
county of Orleans.**

*To the Honorable the Legislature of the State of New-York,*

The undersigned, inspector of sole leather in the village of Medina, in the county of Orleans, acting under the article of title second, chapter seventeenth, part first of the Revised Statutes of said State, respectfully reports, that he as such inspector, has inspected during the year ending on the first day of January next preceding the making of this report, the following sole leather, and of which the following is as near as may be, the quality, to wit:

1,775 sides inspected good, ..... weight 26,409½  
374 sides inspected damaged, ..... weight 5,293

Amount received for inspection, is..... \$85.96.

**JOHN BAGLEY, Jr.**  
*Inspector.*

***Medina, Jan. 26th, 1833.***

**[Assem. No. 145.]**



**IN ASSEMBLY,**

**January 30, 1833.**

**ANNUAL REPORT**

**Of James Lowerre, an Inspector of Beef and Pork  
in the city of New-York.**

*To the Honorable the Legislature of the State of New-York.*

In conformity with the provisions of the law regulating the inspection and repacking of beef and pork, I hereby report, that the quantity, qualities and value of the beef and pork inspected and repacked by me, from the first day of January, 1831, to the first day of January, 1832, are as follows:

			Value per barrel.
	36 barrels clear mess pork, .....		<del>\$15</del> 00
4,902	" mess pork, .....		14 00
336	" thin mess pork, .....		13 00
5,521	" prime pork, .....		11 00
431	" flanks, .....		12 75
102	" cargo pork, .....		9 00
301	" soft mess pork, .....		12 00
415	" soft prime pork, .....		10 00
546	" rusty mess pork, .....		11 25
701	" rusty prime pork, .....		9 50
272	" sour mess pork, .....		11 50
724	" sour prime pork, .....		9 50
39	" clear pork, .....		11 00
19	" tainted mess pork, .....		11 00
43	" tainted prime pork, .....		9 00
166	" heads and shoulders, .....		7 00
16	" chimes and rumps, .....		12 00
3	" ribs, .....		4 00
7	" small pieces pork, .....		7 00

		Value per barrel.
13	barrels clear thin pork, .....	10 00
2	" tainted chops, .....	7 00
15	" rusty cheeks and flanks, .....	10 00
3	" musty mess pork, .....	12 00
14	" rusty thin pork, .....	11 00
25	" clear rusty mess pork, .....	12 00
9	" rusty heads, .....	5 00
17	" sour heads and shoulders, ...	5 00
1	" hocks, .....	4 00
319	" mess beef.	
1,002	" prime beef.	
105	" cargo beef.	
9	" necks and shoulders.	
1	" sour prime beef.	

---

**15,475 barrels.**

---

45 half barrels mess pork.  
 400 " prime pork.

---

**445 half barrels.**

---

Inspection 15 cents per barrel. Coopering, &c. 10 cents per barrel. Inspection, &c. of half barrels, 10 cents.

**JAMES LOWERRE,**  
*Inspector of Beef and Pork*  
*city and county of New-York.*

**IN ASSEMBLY,**

**January 31, 1833.**

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**ANNUAL REPORT**

**Of N. Wilson, an Inspector of Beef and Pork in the  
county of Greene.**

*To the Honorable the Legislature of the State of New-York.*

According to law, I respectfully offer the following report for  
the year 1832.

Inspected	4,502	barrels prime beef,.....	value, \$21,947 00
"	716	" mess beef, .....	5,638 00
"	195	" thin beef, .....	780 00
"	20	half barrels mess beef, .....	85 00

---

5,413 barrels and 20 half barrels, worth.. \$28,450 00

Whole amount inspection fees, ..... \$813 95.

Deduct expenses for labor, &c. .... 270 65

---

Nett amount fees received for inspection, ..... \$543 30

**N. WILSON,**

*Inspector of Beef and Pork  
for the county of Greene.*

**Catskill, 24th January, 1833.**

**[Assem. No. 147.]**





**IN ASSEMBLY,**

**January 31, 1833.**

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**ANNUAL REPORT**

**Of Gilbert Oakley, an Inspector of Beef and Pork  
in the county of Westchester.**

*To the Honorable the Legislature of the State of New-York.*

I, the undersigned, inspector of beef and pork, of the town of White-Plains, in the county of Westchester aforesaid, in conformity to the statute, in relation to the regulation of trade in certain cases, do

**REPORT:**

That the quantity and quality of beef and pork inspected by me during the year ending on the first day of January instant, is as follows, to wit:

Seventy-seven barrels of mess pork, and thirty-five barrels of prime pork, and seventeen barrels of mess beef, and sixteen barrels of prime beef.

And that the fees for inspection of the same, during the year ending on the first day of January instant, amounts to twenty-one dollars and seventy-five cents, and that the probable value of the provisions inspected by me during the said year, is fifteen hundred and sixty-seven dollars.

All of which is respectfully submitted.

**GILBERT OAKLEY,**

*Inspector.*

*January 22, 1833.*



**No. 149.**

**IN ASSEMBLY,**

**January 31, 1833.**

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**ANNUAL REPORT**

**Of Samuel Satterlee, Jr. Measurer-General of Grain  
in the city of New-York.**

Pursuant to the tenth section of the act regulating the measuring of grain in the city of New-York, passed April 14th, 1832, the measurer-general respectfully submits to the Honorable the Legislature, the following report, embracing the number of bushels of grain of different kinds, measured under his superintendence in each month during the year, ending on the 31st day of December last, the average price as near as can be ascertained, from what place shipped, and to what place exported, together with the amount of fees received by himself and each measurer employed.

0934  
1,558 / 0 50 04

1 1 1

6931

558 0 50 01

860

2 960 0 50 01

1,035

445 0 50 01

445

1,606 1 06 0

425  
320 1 00 91

745



RECAPITULATION.

	Wheat.	Rye.	Corn.	Oats.	Barley.	Malt.	Back-wheat.
Dutchess county, .....	3,289½	12,454½	83,004	149,259½	4,228		
Westchester county, .....	.....	.....	.....	331			
Orange county, .....	.....	1,270	11,074	1,443½			
Ulster county, .....	377	2,067½	11,405	8,693½			
Greene county, .....	.....	12,369½	7,787½	69,679	5,578½	.....	63½
Columbia county, .....	6,522	18,593½	46,031	146,073	644		
Albany county, .....	20,581	29,855½	4,556½	17,991	71,347	8,568	
Rensselaer county, .....	14,308½	79,687	66,799½	11,639	3,703		
Saratoga county, .....	.....	19,128	5,135				
Montgomery county, .....	1,590½	3,510	.....	10,468	1,419½		
Tompkins county, .....	2,183						
Seneca county, .....	2,665	.....	.....	2,906			
Cayuga county, .....	.....	.....	.....	.....	1,557		
West, .....	7,128½	.....	.....	2,971	2,505		
Long-Island, .....	.....	.....	8,475	.....	1,307		
Staten-Island, .....	1,475	.....	2,778½	.....			
New-Jersey, .....	.....	666	50,469	860	.....	940	
Connecticut, .....	.....	.....	7,118½	18,459½			
Maryland, .....	25,910	.....	48,797½	2,074½			
Delaware, .....	.....	.....	6,401				
Alexandria, D. C. ....	580	.....					



# RECAPITULATION—Continued.

	Wheat.	Rye.	Corn.	Oats.	Barley.	Malt.	Buck- wheat.
Virginia, .....	106,270	.....	12,420	1,035			
North-Carolina, .....	18,452½	.....	24,902½	445			
Ireland, .....	.....	.....	.....	.....	.....	1,608	
Store, .....	4,985½	160	1,246½	.....	.....	745	
	216,268	179,781	398,400½	443,627½	92,289	11,856	63½

WHENCE EXPORTED.

	Month.	Wheat.	Rye.	Corn.	Oats.	Barley.	Malt.
Connecticut, .....	May, .....	892	6,324	9,067½	2,205		
Massachusetts, .....		.....	1,557	15,162	955		
Rhode-Island, .....		.....	.....	5,805			
Madeira, .....		.....	.....	4,196			
West Indies, .....		.....	.....	100			
		.....	.....	106			
London,.....		.....	.....	722			
Troy,.....		1,123	.....				
Yonkers, .....		.....	.....	1,023			
Hyde-Park,.....		.....	.....	.....	557		
Long-Island, .....		.....	356	3,580½			
New-Jersey,.....		700	.....				
Long-Island, .....	June, .....	2,514	8,237	39,771	3,717		
Albany, .....		3,456	1,959	2,606			
Yonkers, .....		800	.....	6,463½			
Connecticut, .....		508	5,780½	5,975	705½		
Massachusetts, .....		.....	3,149½	18,024½	942		
New-Jersey, .....		1,507	.....				
Pennsylvania,.....		.....	4,288½				
Georgia, .....		.....	.....	861½			

## WHENCE EXPORTED—(Continued.)

	Month.	Wheat.	Rye.	Corn.	Oats.	Barley.	Malt.
Halifax,.....	June, .....	.....	.....	300	40		
West Indies,.....	.....	.....	.....	4,409			
		6,271	15,127½	38,639½	1,687½		
Yonkers,.....	July, .....	.....	.....	3,127			
Long-Island, .....	.....	.....	.....	4,091			
Massachusetts, .....	.....	.....	2,185	9,228			
Connecticut, .....	.....	.....	.....	2,862			
Maine,.....	.....	.....	.....	1,000			
Halifax,.....	.....	.....	.....	600			
Madeira, .....	.....	.....	.....	4,551			
			2,185	25,459			
Newburgh, .....	August, ...	1,183		2,724			
Yonkers,.....	.....	.....	.....	1,842½			
New-Rochelle, .....	.....	.....	.....	9,684			
Massachusetts, .....	.....	.....	5,456	11,823½	73½		
Connecticut, .....	.....	.....	1,374	500	1,072		
West Indies,.....	.....	.....	.....				
		1,183	6,830	26,074	1,145½		

September,							
Redhook,.....	650	.....	.....	.....	7,863	2,835 916	644
Yonkers,.....	.....	.....	.....	.....	3,201		
Long-Island,.....	2,083	2,191	.....	.....	.....		
New-Jersey,.....	913	160	.....	.....	.....		
Connecticut,.....	3,339½	1,386	.....	.....	11,043		
Massachusetts,.....	.....	725	.....	.....	11,570½		
Charlestown,.....	.....	.....	.....	.....	.....		
St. Johns,.....	.....	.....	.....	.....	300		
Rhode-Island,.....	.....	.....	.....	.....	4,519½		
Key-West,.....	.....	.....	.....	.....	200		
Isle France,.....	4,185	.....	.....	.....	.....	3,751½	697 5,161 507
Madeira,.....	.....	.....	.....	.....	4,001½		
		11,170½	4,464	41,698½	.....		
October, ..		1,328	.....	6,759	.....		
Troy,.....	.....	.....	.....	.....	.....		
Yonkers,.....	.....	.....	.....	.....	.....		
Marlborough,.....	.....	1,452½	.....	.....	.....		
Westchester,.....	.....	.....	.....	.....	.....		
Long-Island,.....	.....	2,469	.....	6,058	.....		
Connecticut,.....	2,537	5,205	.....	5,059	1,060		
Massachusetts,.....	.....	2,605	.....	17,928	1,215		
Rhode-Island,.....	.....	.....	.....	1,646½	.....	697 5,161 507	
Maine,.....	.....	.....	.....	1,858	.....		
Maryland,.....	.....	.....	.....	.....	.....		
Pennsylvania,.....	.....	.....	.....	.....	.....		
South,.....	.....	.....	.....	207	.....		
St. Johns,.....	.....	.....	.....	331	.....		

## WHENCE EXPORTED—(Continued.)

	Month.	Wheat.	Rye.	Corn.	Oats.	Barley.	Malt.
Bermuda, .....	October, .....	.....	.....	604			
Madeira, .....	.....	.....	.....	2,326			
		3,865	11,731½	42,271½	2,275	7,009	
Westchester, .....	November, .....	1,650					
Long-Island, .....		1,129	4,644	5,099½			
Yonkers, .....		.....	.....	6,730			
.....		2,924	.....	.....	.....	2,119½	
.....		1,028	605	1,200			
.....		.....	321	11,011	2,271½	12,455½	
.....		.....	429				
.....		.....	.....	1,666			
.....		.....	.....	2,350½			
.....		.....	.....	.....			
.....		.....	.....	.....		9,015	
C. ....		.....	.....	.....		3,769	
C. ....		.....	.....	.....		2,081	
.....		.....	.....	.....		976	
.....		.....	.....	2,744			
		6,731	5,999	31,001	2,271½	30,416	



*Measurer's Fees.*

Nicholas Campbell, resigned May, .....	\$13 40
William Cornell, resigned about 1st June, ....	58 83
William Depew, .....	567 91
John Wright, .....	278 71
Samuel W. Disbrow, .....	628 07
Samuel Bleecker, .....	125 02
Aaron Howell, .....	73 56
Isaac L. Tompkins, .....	349 42
William Frost, .....	440 46
Joseph Earle, .....	281 72
Gilbert Jenkins, .....	485 49
Robert T. Clark, .....	203 64
John Vredenburg, .....	363 92
Ebenezer Briggs, .....	416 84
Tobias L. Stoutenburgh, .....	307 41
Lewis Smith, .....	583 32
Samuel Clark, .....	312 73
Oliver H. Tompkins, .....	385 18
Benjamin N. Disbrow, .....	451 70
Cornelius Timpson, .....	193 02
John G. Ketcham, .....	265 62
Jacob Brinkerhoff, .....	446 22

N. B. The above is the amount each measurer has received after deducting expenses of striking, Measurer-General's fees, &c. as reported by them.

Total, ..... 1,342,285½ bushels.

Amount of fees received and due the Measurer-General,	\$805 37
Deduct office rent, .....	100 00
	<hr/>
	\$705 37
	<hr/>

From the foregoing report, it will be seen that the Measurer-General entered upon the duties of the office on the first day of May last. At that time it was intended to equalize the business among the measurers appointed under the law, by requiring them to fulfil all orders left at the office in rotation. This mode was soon found ineffectual, and therefore abandoned. The city was then divided into districts, and measurers assigned to each; but the measurers, previously appointed by the corporation still continuing to measure in defiance of the law, it was found utterly impracticable to apportion the business equally among the State measurers, unless those appointed by the corporation were compelled to abandon the business. The measurers were therefore permitted to perform their duty without reference to time or place; hence the apparent inequality of compensation which the report discloses. As the city authorities not only declined to call in the licenses or warrants granted to the corporation measurers, but encouraged them to continue the business by authorising the attorney of the board to defend them in case of prosecution, the Measurer-General found himself compelled to institute a number of suits against the corporation measurers to test their rights, and the constitutionality of the law under which he acted. Three suits were accordingly instituted by him at an early day, (one of them on the 16th May,) under the fifth section of the act, to recover the penalty therein given. These suits were defended by the corporation attorney; the justices before whom they were brought, gave judgment for the penalty (25 dollars) in each case. They were all taken before the superior court by the defendants on certiorari, and the severe providential visitation which swept over our city immediately after, prevented a decision in that court until about the 16th of December last, when the judgment of the court below was in one of the cases affirmed, the other two are yet pending; but as this decision is considered as settling the question, the probability is, that the others will be prosecuted no further. During the pendency of these suits in error, the corporation measurers still continuing their business, it became necessary, in order if possible to put a stop to this unlawful exercise of pretended authority, to institute other suits for these subsequent violations. But as during the cholera season, almost all judicial, as well as other business in the city was suspended, it was not until the early part of October, that further suits were commenced; one of these was tried by a jury, who rendered a verdict for the defendant, on the ground that the law was un-



constitutional, and therefore void. Since the decision, however in the superior court, judgments have been rendered for the plaintiff either on confession or verdict in all the other cases. These facts are detailed, in order to shew the difficulties with which he has had to contend; and that however he may have failed in the effort, he has done all in his power to enforce the law, and discharge the trust committed to him under it. At present the Measurer-General is not aware that these violations are continued, and he feels a degree of confidence in the belief that they will not be resumed. Owing therefore to the fact, that during almost the whole time embraced by the report, a number of the corporation measurers have been engaged in measuring; and that no part of what they have measured has been reported to the Measurer-General, it is out of his power to afford the information, as to quantity, &c. which his report was intended to furnish; neither can he form any estimate of the probable quantity which has been measured by them.

All which is respectfully submitted.

SAMUEL SATTERLEE, Jr.

*Measurer-General of Grain,*

*New-York, January 26, 1833.*

**IN ASSEMBLY,**

**February 15, 1833.**

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**REPORT**

**Of the Trustees of the Capitol.**

The Trustees of the Capitol, in relation to their duties under the act entitled "An act relative to the Capitol, and the grounds connected therewith and belonging to the people of this State," passed April 14, 1832,

**RESPECTFULLY REPORT:**

That before the adjournment of the last Legislature, the Trustees had a meeting for the purpose of considering the provisions of the act, and making arrangements to carry them into effect. As, however, a number of the trustees did not reside in Albany during the summer season, and as a constant personal supervision of the work to be done would be requisite, the Board of Trustees made no other order than to appoint a committee of their body, consisting of the Secretary of State, the Attorney-General, and the Comptroller, with full power to draw the moneys appropriated, or so much thereof as it should be found necessary to draw, before the present meeting of the Legislature, and to perform all the acts required of the Trustees by the law in question.

That committee have submitted to the Trustees the following report:

The committee appointed by the Trustees of the Capitol, report, that at as early a day as their other duties would permit, they proceeded to take a plan of the Park, as it was formerly fenced, to obtain levels with reference to the City Park, to ascertain the quantity of excavation required to reduce the Capitol to the level of the City Park, and to consult with the city authorities and the

citizens interested, with reference to such changes in the exterior line of the Capitol Park as might improve, to every practicable extent, its shape and appearance. The line finally adopted for the fence is seen by the line now occupied by the coping of the wall, and it was adopted, not because the committee supposed it the best which could have been laid down, but because it was the best in their judgment to the establishment of which the assent of the authorities of the city could be procured, and without their assent to a partial encroachment upon the then existing streets, no line so regular could be fixed without a material and entirely objectionable contraction of the limits of the Park.

These points being settled, the committee immediately employed Herman V. Hart, then one of the street superintendents of the city, as their agent, to procure materials, employ laborers, oversee the work, and pay the accounts for the excavation necessary, and for the completion of the foundation of the fence, and the putting down of the coping ready for the rail. Mr. Hart published proposals for the excavation, and let the work to the lowest bidder. The work has been long since finished, but the account is not fully paid and settled, because no accurate measurement of the quantity has as yet been obtained.

It was concluded not to let the foundation wall by the job, but to procure the materials for it and hire the labor by the day, that the materials and workmanship might be matter of exclusive direction with the committee and the superintendent. This course was preferred, because the committee were conscious that the stability and durability of the fence would materially depend upon the soundness of the materials and the faithfulness of the workmanship of this wall, and as the whole was to be entirely covered in the earth, they believed that any saving in cost, which would be made by letting it upon contract, would not be equal to the superior value given to the work by keeping within the control and under the personal inspection of a disinterested and competent superintendent.

After they had proceeded thus far, and the excavation and foundation wall were vigorously commenced, the committee issued notices for sealed proposals for the fence or iron railing. But one proposition was made, and that one was to furnish and put up the railing at \$3.62½ per foot run, separate from the gates. No com-

petition having been excited by the public notices for proposals, and the committee having concluded to make some alterations in the plan, they ascertained as nearly as that could be done, the cost per foot run, of the railing to the City Park, and entered into contract with the person making the proposition, Mr. Bailey G. Hathaway, upon that basis, with the addition of a bottom rail to the plan of the City Park fence, but excluding wholly from this contract any provision for the gates. The contract is, to pay \$3.53 per foot run, for the fence with two rails, which includes the cast iron posts and the setting of the rails and posts into the coping, and indeed, the entire completion of the fence, except painting, and not including the gates.

As soon as the plan of the park fence was so far completed as to render it possible, a working pattern, together with a copy of the law, was sent to the agent of the Mount-Pleasant state prison, pursuant to the direction of the 2d section of the act, and he was requested to furnish the necessary coping and other stone, as fast as the business of the prison would permit. The committee are satisfied that the agent used every effort to comply with their request, and the first freight of coping came to them earlier than they expected, but the breaking out of the cholera in the prison suspended all labor of the convicts, and the committee received notice from the agent that it would be impossible to furnish more stone until the pestilence should subside, and the health of the men become sufficiently restored to enable them to go on with their labor. The labor at the prison was wholly or nearly suspended for about two months, and it was sometime in September before the work upon these stone could be resumed. Then more than eight hundred feet of the coping remained to be quarried and fitted, besides the columns and other stone for the gates. It was at once evident to the committee, that they must abandon the hope of completing the fence before the meeting of the Legislature, and as they were informed by the contractor to build the fence, and by others acquainted with the business, that it would not do to attempt to drill the coping stone when affected with the frost, for the purpose of setting the fence, they despaired of doing more until the opening of the spring, than to complete the foundation wall and the laying of the coping thereon. This has been done, with the exception of the coping for the wall on the north side of the Capitol; and in consequence of having made the working plan for the person before it was determined whether or not the iron fence

should be extended along that line, that portion of the coping was not prepared before the close of the navigation.

By the change of the shape of the park, the partial breaking up of the ground for excavation, and the action of the rains of the summer, the walk in front of the Capitol had become deranged, and required re-laying; and as a new walk would be necessary to conform the grounds to the new fence and other contemplated improvements, the committee concluded they should consult economy by the entire removal of the old walk, the conversion of the stone to other uses, and the laying of a new walk upon a plan which would not require alteration when the fence should be completed, and the other improvements made. The superintendent was therefore directed to procure the materials and lay the walk, which has been done.

The change of the fence from the old to the new line also required the removal of several valuable trees standing in the park, and the committee directed the superintendent to have them transplanted, and placed in positions suited to the arrangements proposed, which has incurred a small expense, but they think fully justified for the preservation of the trees removed.

The foregoing is a partial view of the labor undertaken, and of the progress made in it.

The expenditures already made and paid for, with a general classification of objects, are as follows, to wit:

The foundation wall is between 1260 and 1270 feet in length, is 3 feet at the bottom, and 1½ feet at the top, and 4 feet in depth, and is laid of the best materials, and wholly in mortar. To construct this wall, dig the trench for it, fill in the sides after the completion, procure the materials and bring them to the spot, excavate the park to the proper level, remove such parts of the earth as it was not desirable to use, deposit such portions as were useful at the proper points, and to procure materials and lay the walk in front of the Capitol, the following sums have been paid, under the following heads, to wit:

For excavation, . . . . .	\$220 00
stone for wall, . . . . .	536 77
	<hr/>
Carried forward, . . . .	\$756 77

Brought forward,....	\$758 77	
For lime, .....	92 99½	
team work, including cartage of stone for wall, coping, brick for walk, and other team work,.....	277 18½	
labor, including laying wall, laying coping, laying walk, &c. &c. ....	1,333 44	
brick for walk and other purposes, ...	121 68	
freight of coping on the river, .....	197 62	
stone-cutting to fit coping, ....	76 08	
blacksmith's work, .....	18 03	
lumber for lime-house, &c. ....	23 95	
sundry small bills not classified, .....	63 79	
surveys and levels to settle upon plan and estimate the work,.....	48 12	
transplanting trees, ....	41 00	
printing proposals for excavation and for fence, ....	9 50	
	<hr/>	\$3,060 16

Upon the contract for the fence there has been paid  
the sum of,.... 2,968 28

To the agent of the state prison at Mount-Pleasant,  
pursuant to the 2d section of the act referred to,  
there has been paid for the subsistence of the men  
employed in quarrying and cutting the coping, and  
other stone required,..... 1,069 77

To the superintendent employed by the committee, they  
allowed for his services upon settlement, the sum of  
\$250, of which sum he received from the corporation  
\$48.75, for work done by the hands in his employ,  
upon the city park, and the balance was paid by the  
committee, ..... 201 25

Showing the total payments already made from the ap-  
propriation to be,..... \$7,299 46

The whole appropriation made by the first section of the act, and  
to be expended in fencing the park and improving the  
grounds, was ... \$8,000 00

Carried forward, ..... \$8,000 00

Brought forward.....	\$8,000 00
Of this sum the committee have drawn from the treasury \$7,538.05, but have expended the sums mentioned above of.....	\$7,299 46
Leaving in their hands unexpended,.....	238 59
And in the treasury undrawn,.....	461 95
	<u>\$8,000 00</u>

Still there remains applicable to the completion of the work but \$700.54, while the following additional payments and expenditures will be required to finish the fence and gates, and put the grounds in a condition suited to the use designed to be made of them.

To be paid on the contract for completing the fence,.	\$1,119 46
On the contract for the gates, .....	2,189 50
For 170 feet coping,.....	\$170 00
Laying the same,.....	60 00
Freight and cartage of same,.....	30 00
Raising columns, &c. of main gate, .....	50 00
do do 2 small gates,.....	15 00
4 small gates,.....	5 00
Dowell plates, .....	15 00
Lead, .....	20 00
Lime, .....	5 00
Laying drain across the park, .....	50 00
Levelling grounds, walks, gravelling, &c. &c.	300 00
Trees inside and out, and shrubbery,.....	225 00
	<u>945 00</u>
	<u>\$4,203 96</u>

The following sums remain to be paid on outstanding bills, as follows, to wit:

On Hallenbake's act. for clay, team-work, &c.,	\$83 00
Balance on his contract,.....	23 72
Edward Reynolds' account for teaming, carting, coping, &c., .....	109 12
J. Lyman's account, .....	11 85
Account of the Mohawk and Hudson Railroad Company,.....	21 00
	<u>248 69</u>
	<u>\$4,452 65</u>
Deduct from this, the sum remaining of the former appropriation, .....	700 54
And it leaves .....	<u>\$3,752 11</u>

According to the estimates now presented, there will be required an appropriation of \$3,752.11, to complete the Capitol park.— Copies of the contracts for the fence and gates, and an estimate of the expense of the work are annexed to this report, and marked A, B, C.

The posts for the fence are cast, and together with the wrought iron rails and bannisters for the other parts of the fence have been delivered to the Trustees of the Capitol, and are all on the ground, in the temporary buildings erected in the park. The fence would have been put up by the contractor before the close of the season, if the Trustees could have procured the coping according to the terms of the contract on their part.

The pillars of the main gate are completed and the marble for all the pillars of the other gates is on the ground, and ready for putting up.

It will be seen by the preceding statement, that the sum of \$1,069 77 only, was paid to the Agent of the Sing-Sing prison for all the stone furnished by him for the park. This was the sum estimated for the subsistence merely of the men employed in quarrying and cutting the stone. The stone furnished for the Capitol park, and for which the foregoing sum was paid, would have amounted to \$1,816.56 at the price paid by the corporation of Albany for the marble of the City-Hall.

SILAS WRIGHT, Jr.,  
A. C. FLAGG,  
GREENE C. BRONSON,

*Committee.*

*January 7, 1833.*

The Trustees approve of the proceedings of the committee, and respectfully recommend the necessary appropriation for completing the works.

W. L. MARCY,  
JOHN TRACY,  
JOHN A. DIX,  
A. C. FLAGG,  
GREENE C. BRONSON.

*Feb. 13, 1833.*





## DOCUMENTS.

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( A. )

### *Copy of Contract for Park Fence.*

Articles of agreement, made and concluded this thirty-first day of July, in the year one thousand eight hundred and thirty-two, between Bailey G. Hathaway of the one part, and Greene C. Bronson, Attorney-General, Azariah C. Flagg, Secretary of State, and Silas Wright junior, Comptroller, a committee appointed by the Trustees of the Capitol of the other part, witnesseth: That the said party of the first part, for the considerations herein after mentioned, agrees to furnish the iron, lead and other materials for, and to make and put up an iron fence, around the Capitol Park, in all respects similar to the fence now erecting by him around the City Park, except that there is to be a bottom rail between three and four inches from the coping, made fast to the posts and in all other respects made and fitted as the top rail upon the City Park fence is made and fitted, and that the top rail is to be sunk from one to three inches, according to the direction of the said parties of the second part, below the elevation of the top rail of the City Park fence; the said fence to be made and put up by the said party of the first part from the coping, with the exception of the gates, and of such stone columns as the said parties of the second part shall choose to erect; the posts and bannisters to be inserted into the coping and firmly leaded, and the rails made firm and secure to the posts, and each bannister made firm by leading or otherwise at its passage through each rail, and each rail to be kept level and supported by a rivet through it and the bannister at its centre, and the whole to be done in a good workmanlike manner, and to be completed by the fifteenth day of November next, unless the party of the first part shall be delayed by the said parties of the second part, or by sickness or other unavoidable misfortune, and in any event to be completed by the fifteenth day of December next, unless the delay shall be chargeable to the said parties of the second part; and the price of the whole to be three dollars and fifty-three cents per foot run, deducting from the measurement the gates and pillars, and measuring the fence actually erected only.

The parties of the second part, in consideration of the foregoing, agree that the said party of the first part shall be paid, out of the appropriation made by the Legislature for this object, by the act of the 14th April last, chapter 188 of the laws of 1832, the said sum of three dollars and fifty-three cents per foot run for the fence as the same shall measure when completed, and the payment to be completed when the fence is accepted. And the said parties

of the second part further agree that when the said party of the first part shall have purchased and received a delivery of the iron for the wrought part of the fence, and shall present to them the bills thereof duly receipted, and shall give them good and satisfactory sureties that the iron so purchased is the iron fitted for the construction of the said fence, and designed for that object; and that the same shall be put into the fence hereby contracted to be built, or shall be forthcoming at the call of the said parties of the second part, they will advance to the said party of the first part, in part payment upon this contract, the amount of the purchase bills of the said iron, so presented and duly receipted. They will further make from time to time such further advances upon this contract as shall be fully warranted, in their judgment, by the progress of the work, but this at all times to be judged of by them.

It witness whereof, we have hereunto interchangeably subscribed our names, the day and year first above written.

BAILEY G. HATHAWAY.

SILAS WRIGHT, Jr.

A. C. FLAGG,

GREENE C. BRONSON,

} Committee of the  
Trustees.

Witness, ISAIAH L. WEAVER.

In consideration that the Trustees of the Capitol advance this day, to Bailey G. Hathaway, upon the foregoing contract the sum of eleven hundred and six and  $\frac{2}{8}$  dollars, for the purpose of paying the two bills herewith delivered, of iron for the fence contracted to be built, the one bill being to I. & J. Townsend, for \$125.80, and the other to Pruyn, Wilson & Vosburgh, for \$980.28. We do hereby contract, agree and obligate ourselves, that the said iron shall be put into the said fence, or that in case of the sickness, death or other accident or misfortune of the said Hathaway should prevent his completion of the fence, that the said iron shall be forthcoming upon the request of the said Trustees, or either of them, to be used for the said fence. Dated Albany, 14th August, 1832.

PRUYN, WILSON & VOSBURGH.

In consideration of the further advance upon the foregoing contract of six hundred sixty-two  $\frac{2}{8}$  dollars, to pay another bill of iron bought of Pruyn, Wilson & Vosburgh, we hereby enter into the same obligation as last above written, as to the iron this last paid for. Dated Albany, 3d September, 1832.

PRUYN, WILSON & VOSBURGH.

Copy of entries made on the contract in the hands of the contractor as follows, to wit:

The foregoing contract having fixed the 15th December, 1832, as the time for completing the same, and the delay to complete it by that time having been occasioned by the failure of the Trustees to procure the coping stone, we hereby certify that fact, that it may appear that no forfeiture has been incurred by the contractor, in

consequence of the delay hitherto to complete the same. Dated at Albany, 5th January, 1833.

SILAS WRIGHT, Jr.	} Committee of the Trustees.
A. C. FLAGG,	
GREENE C. BRONSON,	

And I agree, on my part, that the contract is still obligatory upon me, to be performed in future.

BAILEY G. HATHAWAY.

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( B. )

*Copy of Contract for Park Gates.*

Articles of agreement, made the 4th of September, 1832, between Bailey G. Hathaway of the one part, and the Trustees of the Capitol by Azariah C. Flagg, Secretary of State, Silas Wright jun. Comptroller, and Greene C. Bronson, Attorney-General, a committee of the said Trustees, appointed for that purpose, of the other part.

The said party of the first part, for the consideration hereinafter mentioned, agrees with the said Trustees to furnish the iron, and all other materials, and to make, construct and put up, all the iron gates designed for the fence now erecting around the Capitol Park, in the city of Albany, pursuant to a contract entered into between said Hathaway and said committee on the 31st day of July last; and to have the said gates completed and hung with the least possible delay. The principal gate, and the two side gates connected therewith, in front of State-street, to be constructed upon the plan prepared for that purpose by Henry Rector, and accompanying this contract; except that the plan in question contemplates four stone pillars, the two side or smaller of which said pillars are to be omitted; and the two remaining stone pillars, and sill pieces, are to be furnished and set up by the said Trustees.

The six pedestals to which the said principal and side gates are to be hung and fastened, and against which they are to shut, are to be made with a hollow cast-iron base, and suitable cast-iron rods, cap and ball, with all suitable wrought-iron work, to complete the same in the best and most substantial manner; and all the other iron work about the said gates to be made of wrought-iron. The smaller gates, six in number, to be located according to the plan adopted by the said Trustees, and to be constructed, as well as the pedestals to which the same are fastened, and against which they shut, of wrought-iron, except the balls, which are to be of cast-iron.

All the bars, rods and other iron work used in constructing the said principal, side and other gates, to be of suitable sizes, dimensions and proportions, in reference to the size of the said gates, the fence of which they are to form a part, and the strength, beauty and permanency of the said work.

The said gates and other works are to have all suitable and proper hinges, springs, fastenings and other things thereunto pertaining, according to the best and most approved plans and devices for executing works of this description. And the whole work, in all its parts, to be made, constructed and completed for use in the best and most substantial manner. And the said party of the first part agrees with the said Trustees to warrant the strength and durability of the said gates and other works, except as to the operation of frost and other casuses, which may affect the foundation upon which the same are to be erected.

The parties of the second part agree to pay said Hathaway for the aforesaid works, out of the appropriation made by the Legislature for this object, by Chapter 138 of the laws of 1832, at and after the rate of ten cents per pound for all the wrought and cast-iron and lead there may be used in the said works when completed. The payment to be made when the said works shall have been completed and accepted by the said Trustees, if the said appropriation should be sufficient to defray this and the other charges upon the same; and in case of any deficiency, the said Trustees will make the proper representations on the subject to the Legislature; to the end that further provision may be made by law.

BAILEY G. HATHAWAY.

GREENE C. BRONSON, *Att'y-Gen.*  
A. C. FLAGG, *Sec. State,*  
*Committee of Trustees.*

( C. )

*Estimate of the cost of Park Fence and Gate.*

*Albany, January 25th, 1833.*

An estimate or calculation of the expense to erect the iron fence round the State Park at Albany, according to the plan drawn by Henry Rector, architect for the same, as follows:

1. 1,158 feet of fence, at \$3.53 per foot, .....	\$4,087 74
2. 6 large iron pedestals in front, which will weigh 11,300lbs. at 10 cts. per lb. ....	1,130 00
3. 1 large double gate in front, 825lbs. at 10cts. ....	82 50
4. 2 small side gates do 780lbs. do .....	78 00
5. Filling in side between gates, 640lbs. do .....	64 00
6. 12 iron pedestals on the sides. 5,000lbs. do .....	500 00
7. 6 side gates do 1,650lbs. do .....	165 00
8. 1,200lbs. lead, .....	120 00
	<hr/>
	\$6,227 24
	<hr/>

The cutting of the holes in the stone is included in the above calculation.

B. G. HATHAWAY.

**No. 151.**

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**IN ASSEMBLY,**

**February 15, 1833.**

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**REPORT**

**Of the select committee composed of the delegation  
from the city of New-York.**

**Mr. Varian, from the select committee, consisting of the delegation attending this House from the city of New-York,**

**REPORTED:**

That they have duly considered and examined the subject matter referred to them, which is an application from the corporation of the said city, to obtain an amendment of the existing law on the subject of closing roads, lanes, &c.

The corporation now have, by the act proposed to be amended, the power of closing roads whenever the public will not be incommoded thereby, and paying to individuals their respective damages, of vesting the fee of the said roads or lanes so closed, in the said corporation. This power is not exercised by the corporation except in cases, when, in opening of new streets and avenues under the present plan, and also requested by the owners of property where streets and avenues are extended through, the road or lane being useless and the public good require the closing of said old road or lane, and the individuals fronting on the old road or lane are presented with better fronts, and better ingress and egress on the newly opened street or avenue.

But it would appear that occasionally there are individual cases when an owner of a lot is so situated, that by closing the old road or lane he is left without any front or egress from his property to a public thoroughfare. In such a case the corporation have the power of estimating and paying him his damages, but have not the power of vesting the fee of such lot in the corporation, it being no part

of the old road. Without this amendment, the individual would have the right to the compensation and the title of the lot remaining in him. This the committee think would not comport with the principles of equal justice, and are therefore willing that the fee should pass to the corporation, on paying a full value therefor.

The committee for that purpose ask leave to introduce a bill.

**IN ASSEMBLY,**

**February 15, 1833.**

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**REPORT**

**Of the Committee on Claims, on the petition of  
Charles M. Pine.**

Mr. Russell, from the committee on claims, to which was referred the petition of Charles M. Pine, praying the passage of a law directing the Treasurer to repay to him the sum of one hundred dollars, paid into the treasury for a pedler's license,

**REPORTED:**

It is alleged by the petitioner that in April last he obtained from the Secretary of State, a license to travel as a pedler with two horses, and paid therefor the sum of one hundred dollars, pursuant to the provisions of title 4, chapter 17, of part 1, of the Revised Statutes, (1 vol. p. 575); that immediately after the license was obtained, he was taken sick and continued so the residue of the spring and most if not all the ensuing summer, so that he was unable to travel or use the said license; that in the month of May, in consequence of his sickness, and for no other cause, he returned said license to the office of the Secretary, where it now remains; that he was unable to and never did avail himself of the said license, or the benefits contemplated thereby, but returned the same to be cancelled, without having derived the least benefit therefrom.

The Secretary states that the license was obtained on the 14th day of April, 1832, for which the sum of one hundred dollars was paid, and that on the 18th day of May last the same was returned to the office in a letter from Mr. B. F. Thompson, with a request that it be cancelled; from that time to the present the license has remained in said office.



The committee have been attended by a member of this House, who states that the cause of the return of the license to the said Secretary's office, was the sickness of petitioner, and, as he understood, from no other cause. That he is poor, though highly esteemed for his moral worth, and that he is a native of the county of Queens.

Under these circumstances, the claim resting upon the ground that the petitioner was prevented from using the license in consequence of this providential visitation, is presented with peculiar force, and calls for the exercise of those equitable powers which are alone vested in the Legislature. The Committee are of the opinion that the prayer is reasonable and just, and that the petitioner is entitled to the relief sought for. The committee have therefore prepared a bill for that purpose, and ask leave to introduce the same.

**IN ASSEMBLY,**

**February 16, 1833.**

**REPORT**

**Of the Adjutant-General, relative to monies expended by him in the preservation of books received by him from the Secretary of War of the United States.**

ADJUTANT-GENERAL'S OFFICE, }  
15th February, 1833. }

**To the SPEAKER OF THE ASSEMBLY.**

I have the honor to report, that on the 30th day of June, 1832, I received, on the draft of A. Keyser, the sum of one hundred and forty-two dollars, appropriated by the act of 26th April, 1832, Laws of N. Y. 55th Sess., Chap. 332, section 11, "For the purpose of paying expenses incurred for the preservation of a quantity of books received from the Secretary of War of the United States, and also for the expense of distributing said books to the militia of the State." Pursuant to the intentions of the act, I have made the following payments, viz:

1st. On the 29th June, 1832, to Webster & Skinners, for care and labor expended in the preservation of said books, for a period of nearly two years,.....	\$42 00
2d. On the 22d June, 1832, to Leonard & Wellman for transportation of a box of books for the use of the 52d brigade of infantry,.....	75
3d. On the 14th November, 1832, to Henry P. Nugent, for preparing 4,050 volumes of military books for distribution, .....	10 00
4th. On the 12th January, 1833, to Lauchlan McPherson, for making boxes to pack said books,.....	31 00
	<hr/>
	\$83 75
	<hr/>

Leaving a balance of \$58.25, which has this day been paid over to Levi Hubbell, my successor in office, and which will be adequate to all the remaining purposes of the appropriation.

I have the honor to be, Sir,

Your most obedient servant,

JOHN A. DIX.

**IN ASSEMBLY,**

**February 16, 1833.**

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**REPORT**

**Of the Select Committee on the petition of Andrew Wamer.**

Mr. McKeon, from the select committee to which was referred the petition of Andrew Wamer of the city of New-York,

**REPORTED:**

As appears by the representations of the petitioner, his late father on his arrival in this country from Germany, his native place, was induced by his eldest brother, then a resident of the city of New-York, and since deceased, to change the manner of spelling and pronouncing his surname, from the original family name of Werner, to that of Wamer. The alteration of the name, on the part of the said brother took place shortly after his settlement in this country, and in consequence of its being misspelled in some legal instrument.

The petitioner, from a sense of respect which he entertains for the appellation of his ancestors, is desirous of assuming the original family name. He has been informed that one of his father's brothers recently died intestate, leaving property.

The petitioner prays for authority to adopt the surname of Werner instead of that which he now bears, and the committee deeming his request reasonable, have prepared a bill, and instructed their chairman to ask leave to introduce the same.



**IN ASSEMBLY,**

**February 16, 1833.**

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**REPORT**

**Of the select committee, in the case of Alvah Beebe.**

The select committee, appointed to conduct the further proceedings which may be necessary in relation to the alleged contempt and breach of the privileges of this House, by Alvah Beebe,

**REPORTED:**

By respectfully recommending to the House the adoption of the following resolutions:

*Resolved*, That Alvah Beebe be brought to the bar of this House, by the Sergeant-at-Arms, this day at 12 o'clock, and that the following interrogatories be then put to him:

*First.* Are you a petitioner for the incorporation of a bank in the county of Tompkins, proposed to be called the Tompkins County Bank? Have you endeavored to aid and assist in promoting the object of that application?

*Second.* Did you address copies of a printed petition in favor of that bank, to members of this House? Did you enclose such copies to Thomas Bishop and Ira Tillotson, Esquires, members of this House from the county of Tompkins, to be by them distributed to the members to whom the same were addressed? Were any of the said copies sealed?

*Third.* Look upon one of the said copies now shown to you, addressed to "General De Mott, Albany," and at the writing under the printed petition, and state whether the said address or direction, and the said written matter, or either of them, were written by you?

*Fourth.* Was the said copy of a petition, with the said written matter thereon, sent by you to the said Ira Tillotson and Thomas Bishop, Esquires, or either of them, to be transmitted to Gen. De Mott?

*Fifth.* By the address of the said copy of a petition to "Gen. De Mott," did you intend John De Mott, Esq., a member of this House from the county of Seneca? Were you, previously, acquainted personally with the said John De Mott, and how long have you been acquainted with him?

*Sixth.* What explanation can you offer, for having sent the said copy of a petition, with the said written matter thereon, to the said John De Mott?

*Resolved,* That that the said Alvah Beebe be required to answer the said interrogatories orally, and that his answers be taken down by the Clerk, and read to him.

*Resolved,* That if the said Alvah Beebe, after hearing the said interrogatories, shall desire a copy of them, and time to answer them, this House will hear such application and decide thereon; and if the said Alvah Beebe desires to present his own affidavit, or any other testimony, in explanation of his conduct, this House will receive the same.

*Resolved,* That the said Alvah Beebe remain in the custody of the Sergeant-at-Arms, by virtue of the warrant already issued, until he shall be discharged by the order of this House.

**No. 156.**

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**IN ASSEMBLY,**

**February 16, 1833.**

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**REPORT**

**Of the Comptroller on the petition of Erastus Cleaveland and Jeremiah Whipple.**

COMPTROLLER'S OFFICE, }  
*Albany, February 15, 1833.* }

**TO CHARLES L. LIVINGSTON, Esq.**

*Speaker of the Assembly.*

**SIR,**

Herewith is presented a report on the petition of Erastus Cleaveland and Jeremiah Whipple, which was referred by the Assembly to the Comptroller.

Respectfully your ob't serv't,

**A. C. FLAGG.**





## REPORT.

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COMPTROLLER'S OFFICE, }  
*Albany, February 12, 1833.* }

The Comptroller, to whom was referred by the Assembly the petition of Erastus Cleaveland and Jeremiah Whipple, commissioners of loans for the county of Madison,

### RESPECTFULLY REPORTS:

That the petitioners, who were commissioners under the "Act authorising a loan of moneys to the people of this State," passed April 11th, 1808, proceeded to advertise and sell a lot in Cazenovia, which had been mortgaged by Andrew Russell to the said commissioners. The act of 1808, before referred to, requires the commissioners, in case of default on the part of any borrower, 1st. To advertise the mortgaged premises for sale, on the third Tuesday of September; and if no person shall bid an amount equal to the principal and interest of the mortgage, then the commissioners are required to take possession of the lands, and let the same upon the best terms, until the third Tuesday of April following: and, 2d. To advertise the same lands for sale on the said third Tuesday of April; and if no person shall offer to give for the land the sum which then remains unpaid, the commissioners, at the second sale, are required, by section 19 of said act, to purchase and hold the same for the benefit of the people of the State.

The petitioners state, that at the first sale in Sept. 1827, they bid in the lot; but when it was put up at the second sale, in April, the commissioners did not bid it in, although no person offered the amount due the State: and the lot was sold to Jonathan D. Ledyard, for eighteen dollars, being less by twenty-two dollars than the sum due the State, besides the costs of sale.

The commissioners, during the last month, applied to the Comptroller, to have this account closed according to section 46, title 2 of chap. 12, (p. 374, 1st R. Statutes.) This section authorises the

Comptroller, "whenever any mortgaged premises are bid in by commissioners of loans, for an amount less than the mortgage money, interest and costs due," if nothing more can be collected, and there is no fault on the part of the commissioners, "to credit them with the full amount due on the mortgage at the time of sale, upon their delivering to him the original mortgage, and all other securities for the mortgage debt."

The commissioners, however, under a misapprehension of the law of 1808, having sold the premises for a sum less than the mortgage, are unable to comply with the 46th section, before referred to, and cannot settle the account at the Comptroller's office according to said section. And the object of the petition is to have the sale of the lot mortgaged by Russell confirmed to Ledyard, and to have the Comptroller authorized to credit the commissioners with the sum due from Russell, after paying into the treasury, as already has been done, the sum received on the sale of the lot.

The value of the lot in question is stated to have been essentially impaired, from having been flooded by the erection of a mill dam; and if the mortgaged premises had been bid in by the commissioners of loans, and turned over to the Commissioners of the Land-Office, a considerable portion of the remaining value of the lot would have been expended in the appraisement and advertising of the same for sale. It is believed, therefore, that although the law has not been strictly complied with, the interests of the State have not suffered by the course which the commissioners of loans have pursued in this case. The Comptroller sees no objection to the passage of a law giving to the petitioners the privilege of closing the account according to the principles of section 46, before referred to, in the same manner as if the commissioners had bid in the mortgaged premises.

All which is respectfully submitted.

A. C. FLAGG.

**No. 158.**

**IN ASSEMBLY,**

**February 1, 1833.**

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**ANNUAL REPORT**

**Of Nathaniel Challes, an Inspector of Lumber in the  
city of Troy.**

The following is the annual report of Nathan Challes, on of the inspectors of lumber for the city of Troy, for 1832, as follows, in superficial feet, viz:

1,310,406	feet	white pine boards and plank,
284,842	"	thin whitewood boards.
59,473	"	thin basswood.
52,923	"	cherry.
136,073	"	whitewood chair plank.
20,008	"	white ash.
7,632	"	thin bass.
31,395	"	ship plank.
5,749	"	bass chair plank.
16,684	"	maple scantling.
8,130	"	black walnut boards and plank.
5,432	"	cubic pine.
13,478	"	hemlock house beams.
494	"	beach scantling.
497	"	button wood.

**Amount of fees received, ..... \$771.08**

**NATHANIEL CHALLES,**  
*Inspector.*



**No. 159.**

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**IN ASSEMBLY,**

**February 1, 1833.**

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**ANNUAL REPORT**

**Of Ebenezer Thayer, an Inspector of Sole Leather  
for the county of Tompkins.**

*To the Honorable the Legislature of the State of New-York.*

The undersigned would respectfully report to your Honorable Body, that he has inspected during the last year, ending on the thirty-first day of December, 1832, three thousand two hundred and thirty-three sides of sole leather, the thirtieth part of which has been that of the best and good qualities.

Amount of fees received, ..... \$129.32.

Weight of the leather, ..... 50,148 2 qr.

Value of the same at 23 cents per lb... \$11,533.97

**EBENEZER THAYER.**

*Inspector for the county of Tompkins.*

*Ithaca, Jan. 26, 1833.*



**No. 160.**

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**IN ASSEMBLY,**

**February 1, 1833.**

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**ANNUAL REPORT**

**Of Epaphras Warren, an Inspector of Beef and Pork  
for the county of Tompkins.**

*To the Honorable the Legislature of the State of New-York.*

I, Epaphras Warren, Inspector of beef and pork for the county of Tompkins, residing in the village of Ithaca, do report, that during the year ending on the first day of January instant, I have inspected one hundred and eight barrels mess pork, and one hundred and eighty-two barrels prime pork, and fifty barrels cargo pork.

About one third of the above mentioned pork was fatted on corn, the other was still fatted, and was of a good quality. The average value was twelve dollars for mess, nine for prime, and seven for cargo per barrel.

The amount of fees derived from my office during the year, was eighty-five dollars.

All of which is respectfully submitted.

**EPAPHRAS WARREN,**

*Inspector of Beef and Pork  
for the county of Tompkins.*

*Ithaca, January 1, 1833.*





**No. 161.**

**IN ASSEMBLY,**

**February 1, 1833.**

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**ANNUAL REPORT**

**Of Philo Lewis, Inspector of Beef and Pork in the  
city and county of New-York.**

An account of provisions inspected by Philo Lewis in the city  
and county of New-York, from first month first, 1832, to first  
month first, 1833, as follows:

4,837	barrels	mess	pork.	
503	"	thin	side	pork.
10,463	"	prime		pork.
27	"	cargo		pork.
57	"	soft	mess	pork.
287	"	soft	prime	pork.
13	"	soft	cargo	pork.
18	"	sour	mess	pork.
56	"	sour	prime	pork.
476	"	refuse		pork.
2	half	barrels	mess	pork.
42	"	prime		pork.
849	barrels	mess	beef.	
2,425	"	prime		beef.
74	"	cargo		beef.
40	"	refuse		beef.
24	half	barrels	mess	beef.
Total of pork, . . . . .				16,737 barrels.
" " . . . . .				44 half barrels.
Total of beef, . . . . .				3,388 barrels.
" " . . . . .				24 half barrels.

The average sales of pork in barrels of the above, supposed to amount to .....	\$198,721 00
The average sales of pork in half barrels of the above, supposed to amount to .....	266 00
The average sales of beef in barrels of the above, supposed to amount to .....	21,976 00
The average sales of beef in half barrels of the above, supposed to amount to .....	120 00
Fees, &c. for inspecting 20,125 barrels and 68 half barrels, amounts to.....	3,025 55
	<hr/>
	<b>\$219,108 55</b>
	<hr/>

PHILO LEWIS.

*New-York, January 29, 1833.*

**IN ASSEMBLY,**

**February 18, 1833.**

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**REPORT**

**Of the Select Committee on the petitions of the inhabitants of the counties of Wayne, Erie, Yates, Tompkins and Ontario, relative to the assessment and collection of taxes.**

The select committee, to which was referred the several petitions of the inhabitants of the counties of Wayne, Erie, Yates, Tompkins, and Ontario, praying for an alteration of the law for the assessment and collection of taxes,

**REPORTED:**

That by the present law a vast amount of personal estate escapes taxation, and produces an unequal and unjust operation. Debts to aliens and other non-residents in the hands of agents, and exceeding in amount, in the northern and western parts of our State, twenty millions of dollars, although protected by our laws, are not subject to taxation for the maintenance of that government from which they derive security.

It is not the intention of the committee to assess debts arising in the course of commercial transactions, or demands sent to this State for collection, but those arising from the sale of real estate, or secured by mortgage on real property, which the permanency of their character permits to be reached.

While the general principle is admitted, that all real and personal property in this State shall contribute its fair proportion for public expenses, the committee cannot doubt the propriety of a law which would compel the non-resident, equally with the resident, to share the burthen of taxation.

In the year 1831, a report on this subject was made by the committee of ways and means, to the Assembly (Assembly Documents, 1831, No. 208,) recommending the passage of a law, but owing to the accumulation of business was not acted on. In the opinion of the committee, it should now receive the earnest and immediate attention of the Legislature.

The committee have prepared a bill, and directed their chairman to ask leave to introduce the same.

**IN ASSEMBLY,**

**February 18, 1833.**

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**RESOLUTIONS FROM THE SENATE.**

STATE OF NEW-YORK, }  
*In Senate, February 16, 1833. }*

*Resolved*, (if the Assembly concur,) that we approve of the general views and conclusions of the preceding report.

*Resolved*, (if the Assembly concur,) that we regard the Union of these States as indispensable to their prosperity and happiness; that we participate fully in the desire which has been manifested by the President to restore harmony and conciliate affection amongst all the people of the United States, by a seasonable and equitable modification of the Tariff, adapting it to the present condition of the country; that we approve the measures he has adopted and recommended to sustain the authority and execute the laws of the United States; and that the government and people of this State will cordially co-operate with him in the exercise of all the means which may be necessary and proper to secure those objects.

*Resolved*, (if the Assembly concur,) that we regard the right of a single State to make void within its limits the laws of the United States, as set forth in the ordinance of South Carolina, as wholly unauthorised by the constitution of the United States, and in its tendency subversive of the Union and the government thereof.

*Resolved*, (if the Assembly concur,) that we do dissent from the doctrine that a single State has a right to withdraw itself from the Union against the wishes of its co-States, whenever in its sole judgment the acts of the Federal Government shall be such as to justify the step.

*Resolved*, (if the Assembly concur,) that the Governor be requested to transmit a copy of the foregoing report and resolutions [Assem. No. 163.]

to the Executive of the State of South Carolina, and to the Executives of the other States respectively, to the end that they may be communicated to the Legislatures thereof, and also a copy of the same to the President of the United States, and to each of our Senators and Representatives in Congress.

By order.

J. F. BACON, *Clerk.*

**IN ASSEMBLY,**

**February 2, 1833.**

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**REPORT**

**Of the committee on public lands, on the petition of  
David Hains.**

Mr. Mabee, from the committee on public lands, to which was referred the petition of David Hains, praying the conveyance to him by the State of certain lands situate in the county of Sullivan,

**REPORTED:**

That they have examined said petition, and the documents of the House upon the same subject; and have ascertained from the latter, that a petition similar to the one now under consideration, was presented to the Legislature in 1816, and again in 1832. The petition of 1832 was referred, in the first instance, to the Commissioners of the Land-Office, who reported on the 13th March. The Commissioners come to the conclusion, that as the petitioner probably did not consider the opinion of the Surveyor-General, given in 1816, a decisive answer to his prayer, they recommended that the Legislature should give explicit decision of its views respecting the subject matter of the petition, in order to prevent a repetition of similar applications. It further appears that the committee on public lands made a report (Documents, page 268,) on the 24th of March; in which report, after reciting the boundaries of Minisink and Hardenburgh patents, and stating that the petition avers the existence of a gore between them, they come to the conclusion that they are not satisfied that any such gore exists between those patents; and that if they were of a contrary belief, their opinion would be, that inasmuch as this supposed gore is now in the possession of persons claiming to hold the same under the great Hardenburgh patent, that their title ought not to be questioned by a legislative enactment. Your committee, not having before them



any other documents or facts to guide them, than those heretofore presented by the petitioner, feel themselves constrained to follow the example of former committees on this subject, and are of opinion that the prayer of the petitioner ought not to be granted, and recommend that he have leave to withdraw his petition.

**IN ASSEMBLY,**

**February 2, 1833.**

**ANNUAL REPORT**

**Of Ichabod Rogers, an Inspector of Beef and Pork  
for the county of Columbia.**

**To CHARLES L. LIVINGSTON, Esq.**  
*Speaker of the Assembly.*

**SIR—**

I annex a statement of the quantity and kind of provisions inspected by me during the year ending on the first day of January instant, pursuant to the provisions of the 185th section, of the act chapter 17, of the regulation of trade in certain cases.

68	barrels mess pork, .....	at \$13 00	\$884 00
41	" prime pork, .....	10 50	420 50
11	" mess beef, .....	8 00	88 00
38	" prime pork, .....	5 00	190 00
10	" cargo pork, .....	4 50	45 00
			<hr/>
			\$1,627 50

Fees for inspecting 168 barrels of provisions at 25 cents per barrel, is.....	\$42 00
Charges for flagging, pegging, nailing, salting and pickling the same, .....	16 80
	<hr/>
	\$25 20

**ICHABOD ROGERS.**

*Hudson, January 31st, 1833.*



**IN ASSEMBLY,**

**February 2, 1833.**

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**ANNUAL REPORT**

**Of Nathaniel Parmeter, an Inspector of Sole Leather for the county of St. Lawrence.**

*To the Honorable the Legislature of the State of New-York.*

The undersigned, one of the inspectors of sole leather in and for the county of St. Lawrence, in pursuance of the statute, in such case made and provided, respectfully submits the following report:

That during the year ending on the first day of January instant, 1833, he has inspected 1,204 sides of sole leather, weighing 19,866 pounds; that all of said sides were prime leather, except 156 which were damaged, weighing 2,574 pounds. That in the opinion of the undersigned the wholesale value of the prime leather will average 23 cents per pound, or..... \$1,977 16  
Of the damaged 27 cents per pound, or ..... 437 58  

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\$2,414 74

That the fees of the undersigned during the year as aforesaid, at 4 cents per each side of sole leather, amounts to \$48.16.

All which is respectfully submitted.

**NATHANIEL PARMETER.**

*Dated Potsdam, January 24, 1833.*



**IN ASSEMBLY,**

**February 19, 1833.**

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**REPORT**

**Of the Select Committee appointed to inquire whether others participated in the letters of Alvah Beebe, &c.**

The select committee, who were instructed by a resolution of the House, to inquire and report, whether any person or persons, and who, if any, have participated in certain communications made to John De Mott and others, members of this House, with the purpose of improperly influencing the votes of the said members,

**REPORTED:**

That after a careful and thorough examination of Alvah Beebe, the author of the communications alluded to, and after the examination of sundry other witnesses, your committee have not discovered any evidence to induce a belief that any person besides the said Beebe, has participated in those communications. It is most satisfactorily established, that the members of this House from the county of Tompkins, were entirely ignorant of the contents of the sealed letters transmitted through them, to different members of this House, until those letters were publicly read, and were not in any way knowing, or privy to their being written, or to the designs of their author. And the committee are entirely satisfied, that the applicants for the Tompkins County Bank, who are among the most respectable men in that county, are not responsible for the conduct of Alvah Beebe, and are in no way implicated in the measures he adopted to aid that application. The subject scarcely admits of a resolution being submitted to the House, and the committee can therefore only ask to be discharged from its further consideration.

*Journal of the Select Committee, appointed to inquire whether any persons have participated in the communications made to John De Mott and others, members of this House, with the purpose of influencing the votes of the said members.*

February 18, 1833, half past 3 o'clock, the committee convened at Bement's Hotel; present—J. C. SPENCER, DUDLEY BURWELL, and THOS. HERTTELL.

ALVAH BEEBE, being sworn, deposes, that no person participated in the letter to John De Mott, written by the deponent, (the subject of the present inquiry,) beside himself; no one knew of his intention to write such a letter, and believes that no one knew of his intention to write to Mr. De Mott; that letter was not shown to any person after it was written, and no one knew its contents. Witness is shown letters to Mr. Litchfield, Mr. Wooster, Mr. Baker, Mr. Lee, and Mr. Morris, and says that no person participated in the writing of those letters, or either or any of them; they were not written on the suggestion of any person, nor were their contents known to any other person. All the letters referred to, including that to Mr. De Mott, were sealed by witness and sent to Mr. Bishop and Mr. Tillotson, to be by them put in the post-office at Albany; witness did not apprise those gentlemen of the contents of the several letters, and has no reason for supposing those gentlemen were acquainted with their contents. There were a number of the petitions directed by witness to members of the House, and sent to Mr. Bishop and Mr. Tillotson, to be put in the post-office, with the exception of a few, probably five or six; these were unsealed and open; those only were sealed, which were written upon. Witness cannot say that he has written any letters to Mr. Bishop, Mr. Tillotson, or Mr. Swartwood, respecting the course to be pursued in aiding the application for the Tompkins County Bank; has written them, but cannot recollect that any allusion was made in his letters, to the course to be pursued by them in relation to the bank, although he may have done so. Witness never sent any names for commissioners to the bank committee, but made a selection from the names of the petitioners, of some forty or more names of the most distinguished men in that county; this list witness sent to a friend in Albany, to show him what friends the bank had, and to obtain his aid. Witness did not personally know the gentleman to whom

he sent the said list, although he knew him by reputation. It is possible that he sent another list of names to the amount of forty or more, to the bank committee, but he has no recollection of having done so. Since his arrival in Albany, he has not seen any letter from himself to Mr Tillotson or Mr. Bishop.

ALVAH BEEBE.

Sworn Feb. 18, 1833, before me,

J. C. SPENCER,

*Chairman, &c.*

IRA TILLOTSON, a member of the House of Assembly from the county of Tompkins, being sworn, deposes that he was not acquainted with the contents of any of the sealed letters sent to him and Mr. Bishop by Alvah Beebe, to be put in the post-office, until they were read in the House of Assembly; does not know of any person having participated with Beebe in writing those letters, or any of them, or of any person being acquainted with their contents before they were delivered to the persons to whom they were directed. The day before they were read in the House, he heard there were some improper letters in the hands of the committee. Witness received several letters from Beebe, perhaps three or four, some of them on the subject of the bank; one of them directed him how to manage, and to talk of opposition to Gen. Hathaway; those letters were destroyed, on the advice of Mr. Swartwood, supposing that they were of no further use; and that all that was wanted of them was to identify their hand-writing. Can not recollect when those letters were destroyed, but thinks it was some two or three days since. Has no particular recollection of having talked with Gen. Hathaway about the Tompkins county bank, though he has probably said to Gen. H. that it was a bank much desired by the people of Tompkins, and a deserving application; he never talked of opposition to Gen. Hathaway. Witness has written nothing to Beebe on the subject of the bank, except that he may have said to him there was no prospect of its success. Witness never had any other but very general and loose conversation with Beebe or with any person about the bank, previous to witness' leaving home.

IRA TILLOTSON.

Sworn, Feb. 18, 1833, before me.

J. C. SPENCER,

*Chairman, &c.*



THOMAS BISHOP, a member of the Assembly from Tompkins county, being sworn, deposes that he was not acquainted with the contents of any of the sealed letters sent by Alvah Beebe to himself and Mr. Tillotson, until they were read in the House of Assembly; does not know of any person having participated with Beebe in writing their letters, or advising them, or of any person being acquainted with their contents previous to their being delivered to the persons to whom they were directed. He has no knowledge of any applicant for or friend of the bank, or any person living in or about Ithaca being in any way implicated in the writing of those letters, or privy to their being written, or any letters of a similar character. He received one or more letters from Beebe, on other subjects, and a wrapper around the letters Beebe had sent him to be put in the post-office; which he destroyed. The wrapper merely requested him to deposit the letters in the post-office. He may have seen the letters of Beebe to Mr. Tillotson, but has no distinct recollection of their contents.

THOMAS BISHOP,

Sworn, Feb. 18, 1833, before me.

J. C. SPENCER,

*Chairman, &c.*

LUTHER GERE, of Ithaca, in the county of Tompkins, being sworn, deposes that he never knew of Alvah Beebe writing any letters to members of the Legislature in aid of the application for the Tompkins county bank, until after his arrest, and knows not of any person having participated in or been privy to any such letters. Witness took no part in the application, either for or against it. Beebe took an active, forward part in supporting the application, but presumes he was not employed by any one for that purpose. From his knowledge of Beebe, witness would hardly expect the friends of the application to engage his services.

LUTHER GERE,

Sworn, February 18, 1833, before me,

J. C. SPENCER,

*Chairman, &c.*

DAVID WOODCOCK, being duly sworn, says that he resides in Ithaca, has been friendly to the application for the Tompkins county bank, although he was not one of the signers. Witness did not know of Beebe's having written any letters, or sent any papers to members of the Legislature on the subject of the bank, until since

his arrest, and does not know of any person having participated in or been privy to such letters. Except what witness has heard from Beebe, he never heard his name mentioned in connection with the bank. From his knowledge of Beebe he should not suppose the applicants of the bank would engage his services in aid of it. In November or December last, Beebe told witness that he was anxious for a bank, and this was the amount of all he had said to him about it,

D. WOODWARD.

Sworn, Feb. 18, 1833, before me,

J. C. SPENCER,

*Chairman, &c.*



**No. 170.**

**IN ASSEMBLY,**

**February 16, 1833.**

**STATEMENT**

**Of the Funds and Property of the New-York Chemical Manufacturing Company, Feb. 1, 1833.**

Chemical manufactory, .....	\$100,000 00
Due from factory, .....	62,173 49
Bills discounted, .....	863,198 32
Notes of city banks, .....	27,684 55
Sundries, counted as cash, .....	2,675 95
Due from city banks, .....	66,743 42
Due from foreign banks, .....	8,900 40
Fixtures of banking-house, bank note plates, paper, &c. ....	3,200 00
Specie, .....	40,737 40
	<hr/>
	\$1,175,313 53
	<hr/>

Capital stock, .....	\$500,000 00
Due to city banks, .....	69,028 18
Due to foreign banks, .....	3,189 75
Dividends unpaid, .....	15,051 07
Profit and loss, .....	7,464 92
Bills in circulation, .....	243,769 00
Deposits, .....	336,810 61
	<hr/>
	\$1,175,313 53
	<hr/>

**E. E.**

**JOHN MASON, *President.***  
**ARCH. CRAIG, *Cashier.***

***New-York, Feb. 1, 1833.***

**[Assem. No. 170.]**



**Sta Feb. 1832, to 1st Feb. 1833.**

	Borax and nit. acid.	Copperas.	Spirits nit. dulcis, and sal. tartar.	Aqua ammonia, and ether.	Bronze liquor, and brown salts.	Barilla, glauber salts, white vitriol, and sal. soda.	
To stock purchased							\$18,142 88
Repairs to							28,702 84
Accidental							15,930 17
							17,763 67
							4,341 81
							2,127 13
Chemical stock as per	25,360	117,462	2,267	3,169	Galls.		6,218 34
Due by	.....	.....	.....	.....	.....		2,686 61
Less, debt	.....	.....	.....	.....	.....		288 62
	.....	.....	.....	.....	.....		566 86
Deduct for	.....	.....	.....	.....	.....	24,428	1,260 57
	.....	.....	.....	.....	.....		563 78
	25,360	117,462	2,267	3,169		24,428	\$98,597 28

**excepted.**

**JOHN MASON, *President.***  
**ARCH. CRAIG, *Cashier.***



No. 171.

## IN ASSEMBLY,

February 19, 1833.

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### ANSWER

Of Alvah Beebe, to the several interrogatories by the  
House of Assembly.

*In the matter of Alvah Beebe, respondent, before the honorable the  
Assembly of the State of New-York.*

The answer of Alvah Beebe, to the several interrogatories addressed by the honorable the Assembly to this respondent.

*First.* This respondent says that he is an applicant, with many other persons, for the incorporation of a bank in the county of Tompkins, and has endeavored to aid and assist in promoting the object of that application among his friends and neighbors in the county of Tompkins, where this respondent resides.

*Second.* I did address copies of a printed petition for the incorporation of that bank to several members of the honorable the Assembly. I also enclosed copies of such petition to Thomas Bishop and Ira Tillotson, Esquires, members of this House, from the county of Tompkins, to be by them put into the post-office, for the members to whom they were addressed, and it is probable that some five or six of them were sealed.

*Third.* The copy of such petition shown to me, addressed to General De Mott, Albany, and the written matter thereunder written, was addressed by me, and in my hand writing, to General De Mott, and the address or direction thereon and the writing thereunder written, is in my hand writing and was written by me.

*Fourth.* I do not recollect whether the said copy of the said petition, with the said written matter thereunder, was sent by me to Ira



Tillotson and Thomas Bishop, Esquires, or either of them, to be transmitted to General De Mott or not,

*Fifth.* By addressing the said copy of said petition to General De Mott, I meant John De Mott, Esquire, a member of this House from the county of Seneca, with whom I was previously acquainted personally, and have known him by reputation about twelve years.

*Sixth.* This respondent, in answer to the sixth interrogatory, says, that he is extensively engaged in the flouring and milling business, having invested, by himself and associates, a capital of from \$15,000 to \$20,000; and having use, during the season for purchasing the produce of the country, for a much larger capital, and feeling strongly the necessity of having more facilities conveniently located to carry on this respondent's business, this respondent associated himself with others to make an application to the honorable the Legislature to incorporate a bank, to be located in the village of Ithaca, where this respondent resides,

This respondent feeling a deep personal interest in the success of such application, and understanding that a great number of such applications were pending before the Legislature from almost every county in the State, and believing by general report that a prevailing disposition among the business part of the community existed to obtain bank stock, and the privileges conferred thereby to those possessing that species of property, and it having generally been asserted, and by many believed, that heretofore, and recently, many gentlemen, members of the Legislature, who had in charge applications of their constituents for new banks, were themselves either directly or indirectly interested in the success of such applications, and expected to be benefitted thereby, as stockholders, officers, directors, or bank attornies, in case of the success of such applications; and this respondent knowing from information and hearsay, that many gentlemen of either branch of the Legislature heretofore have not deemed it improper or dishonorable to become large stockholders in banks created by the aid of their votes; and this respondent knowing the Hon. John De Mott to be a gentleman of high character, and a merchant of wealth and standing, above suspicion in the community where he resides, and residing about twenty miles from Ithaca; and being informed that Gen. De Mott

and his constituents desired to obtain a bank for their accommodation and benefit, to be located at Ovid, and it being understood by this respondent and associates at Ithaca, that the application for such bank at Ovid had been reported upon unfavorably by the honorable the bank committee of the Assembly; and it having been previously suggested to this respondent by the friends and relatives of Gen. De Mott, residing at Ithaca, that in case such application for a bank at Ovid should not receive the favorable consideration of the Legislature, Gen. De Mott would most probably be willing to aid the Tompkins county application in a proper manner, and take an interest therein, and invest about \$10,000 in the stock; and this respondent believing that Gen. De Mott's business at a bank would be very large and profitable, being generally a purchaser annually of produce to a large amount, this respondent did believe that his association in the bank applied for by this respondent and associates would prove highly beneficial to such bank; and this respondent, under all these considerations and circumstances, wrote the memorandum under the printed petition addressed by this respondent to Gen. De Mott; and this respondent says that when he wrote such memorandum, he intended to invite Gen. De Mott bona fide, and in good faith, to become a subscriber to the stock of said bank to the amount of \$10,000, which his friends and relatives suggested he might probably wish to do, also to aid in the success of the application before the Legislature, as other honorable gentlemen often do, as this respondent is informed and believes; but this respondent denies all intention whatever to offer to Gen. De Mott, or any other person, any unusual, corrupt or improper inducement in order to influence his action or vote in the Hon. the Assembly, nor was this respondent sensible at the time he noted the memorandum on the said printed petition addressed to Gen. De Mott, that there was any impropriety in so doing, or that such memorandum would be offensive either to Gen. De Mott or the Hon. the Assembly; and this respondent acknowledges his deep regret that it should have been so considered. This respondent asks leave to add in explanation of that part of the memorandum which indicates opposition to other applications in case of failure of the respondent's and associates' application, that he is informed that such practice (whether improper or not,) has generally obtained in very many instances heretofore with the members of the Legislature themselves, being a right which they and all others have secured to them by the free institutions of this State, when exercised for beneficial and proper purposes and from good motives.

With this explanation and apology, this respondent submits himself to the Hon. the Assembly, (and the community of which he is a member,) and asks to be discharged, and that his reputation, rights and privileges may be secured and continued unto him unimpaired.

ALVAH BEEBE.

CITY AND COUNTY }  
OF ALBANY, } ss.

Alvah Beebe, the respondent in the foregoing answers to the interrogatories propounded to him by the honorable the Assembly, says that he has read such answers and knows the contents thereof, and the statements and facts therein, set forth are just and true, according to the best information and belief of this deponent; and further saith not.

ALVAH BEEBE.

Sworn this 19th February, 1833,  
before me, S. CHEEVER, Com. deeds.

**IN ASSEMBLY,**

**February 4, 1833.**

**ANNUAL REPORT**

**Of John Brace, an Inspector of Beef and Pork for  
the county of Monroe.**

*To the Honorable the Legislature of the State of New-York, in Se-  
nate and Assembly convened.*

I, John Brace, do certify that the following is a true statement  
of provisions inspected by me during the year one thousand eight  
hundred and thirty-two, together with the fees derived therefrom  
and the probable value thereof, viz:

192	barrels mess pork,.....	value \$12	\$2,304 00
318	" prime pork, .....	8	2,544 00
3	" sour mess, .....	8	24 00
4	" rusty prime pork, .....	4	16 00
1	" tainted prime pork,.....	3	3 00
22	" mess beef, .....	5	110 00
27	" prime beef, .....	3	81 00
1	" sour prime beef, .....	2	2 00
60	" mess beef, .....	5	300 00
40	" prime beef,.....	3	120 00
<hr/> 668 barrels.			<hr/> \$5,504 00

**Fees for inspection at 15 cents, ..... \$100 20**

**Cooperage and pickling, at 10 cents, ..... 66 80**

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\$167 00

**JOHN BRACE,**  
*Inspector.*

*Bushnell's Basin, Monroe county, Jan. 1, 1833.*



**IN ASSEMBLY,**

**February 19, 1833.**

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**REPORT**

**Of the committee on medical societies and colleges.**

Mr. Lee, from the committee on medical societies and colleges, to whom were referred certain petitions,

**REPORTED:**

That those petitions purport to be signed by inhabitants of the western part of the State of New-York; stating, among other things, that the subscribers have, for a series of years, witnessed the ill effects of minerals, when used as medicines; and also the *beneficial* effects of botanic medicine. A comparison of *these* induces them to use all honorable means to diffuse a general knowledge of the *botanic practice*. The petitioners further add that they are desirous of improving the practice of medicine, by substituting the *vegetable* kingdom for the *mineral*; and thus to alleviate the suffering condition of man. Finally, it is prayed that the Legislature pass a law authorising the *First Genesee Union Botanic Society*, and such other *societies* as may become auxiliary thereto, to form themselves into *botanic societies*, with power to license such practitioners as have been, or may hereafter be, properly educated and instructed in the administration of *vegetable medicines*: and also to *exclude* such as are *ignorant*, and unacquainted with the medical practice of *roots, herbs, barks, gums and balsams*, used by the members of said societies.

Was it not that the subjects embraced in these petitions were of the utmost importance to the community, it might be sufficient to dismiss them, with an inquiry into the qualifications of the members of the *Genesee Union Botanic Society*; and their competency *properly* to educate and instruct in the knowledge of *vegetables*.

Neither the committee nor the House have been favored with their names, and we are left in ignorance, except through general commendation, of the merits or acquirements of these *new lights* in science. It is astonishing also that persons, pretending to so much *philanthropy* as these petitioners, should ask for a *monopoly*, and an exclusive right to practise *roots, barks, herbs, gums and balsams*, as it is but a few years since the cry—*monopoly*, raised against the regular medical practitioner, was sufficient to induce an alteration in our statutory regulations. But the subject matter of these petitions involve graver and more important considerations.

This Legislature is now asked to sanction the incorporation of a class of self-taught pretenders to the practice of medicine, when we all know that the experience of centuries, and the exertions of learned and wise men of every age, have, as yet, only enabled us to make *progressive* improvements in it. That, though much knowledge has been acquired, yet *much still* remains to be learned.

The Legislature is further called upon to sanction, by *implication*, the proscription of mineral medicines, as they are called, when we are every day, in summer, drinking soda water, a mineral medicine; when, in our families, glauber salts, or Epsom salts, with mineral medicines, are frequently used; and when nine out of ten of the members of this House are daily, at their respective dwellings, drinking well-water, which contains mineral substances, and would reject it with disgust, if it contained any of the *roots, herbs, gums, barks and balsams* of the botanic practice.

This Legislature is further called upon to sanction, by *implication*, a species of practice which deals in the most powerful and virulent of the vegetable poisons, and administers them with a profusion unknown, except among experimenters upon *brute* animals; which gives *condiments*, (red peppers for example,) as it would food; and which, at the present day, is the most fruitful source of commencing intemperance, in its recommendations of bitters, whose chief ingredient is alcoholic wines.

The Legislature is further called upon to sanction all this, when from every quarter of the State we have received the petitions of the intelligent and the humane, out of the profession of medicine, asking us to check the ravages of *ignorance and quackery*; and

when the grave is scarcely closed, in some one or other place, on the victim of *infatuation* and *villany*. Surely death has been sufficiently busy among our citizens, during the last season, to render any additional mode of hastening it unnecessary. The profession which it is intended to degrade and debase, on complying with these petitions, is one that, with all its imperfections and short comings, is inseparable from the prosperity of every well regulated community.

If it fall, the other liberal occupations will be weakened in their character, impaired in their usefulness, and finally they all will sink into mere *trades*, for the cunning, the avaricious and the unprincipled.

The committee, therefore, recommend that the petitioners have leave to withdraw their petition.





**IN ASSEMBLY,**

**February 20, 1833.**

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**REPORT**

**Of the Committee on Claims, on the petition of Wessel Ten Broeck, relative to work done on a turnpike road.**

Mr. Russell, from the committee on claims, to which was referred the petition of Wessel Ten Broeck, praying relief for work done on the turnpike road leading from Burlington to Ithaca,

**REPORTED:**

The petitioner states that heretofore a law was passed incorporating the Cayuga Turnpike Company, which authorized the construction of a turnpike road from the house of Willis Potter in the town of Burlington, in the county of Otsego, to the town of Ithaca, in the county of Tompkins; that the agents of said company, by flattery and deception, prevailed on the petitioner to work a certain portion of said road to the amount of twelve hundred dollars; that no other work has been done on said road by said company, since that performed by the petitioner; that there has never been a gate erected on said road; that some years after said work was done, the commissioners of highways in the town of Edmeston, in the county of Otsego, (through which said turnpike runs,) altered a public road so as to lay it exactly on that part of the turnpike made by the petitioner; by which that part of the turnpike made by the petitioner is taken for the use of the public, and the petitioner is thereby left without compensation or remedy. The petitioner prays justice may be done him in the premises; the committee have not doubted the truth of the allegations above set forth, but are of the opinion that the petitioner has mistaken his remedy; that there is no legal or moral obligation resting upon the

State to remunerate the petitioner for services rendered the turnpike company. From the brief representation made by the petitioner it is to be inferred that the grant had been abandoned by the company, or that their corporate powers has ceased by "*non user*." In consequence of which the town authorities had adopted the route, and appropriated the road to public use. If such conclusions can be drawn from the premises, it will readily be perceived that the State is under no obligations to remunerate the petitioner. The committee have therefore come to the conclusion that the prayer of the petitioner ought not to be granted, and present, for the consideration of the House, the following resolution.

*Resolved*, That the prayer of the petitioner, Wessel Ten Broeck, ought not to be granted.

**IN ASSEMBLY,**

**February 19, 1833.**

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**REPORT**

**Of the select committee on the petition of sundry inhabitants of the towns of Blenheim and Fulton, Schoharie county, to prevent hunting and pursuing deer with dogs in said towns.**

Mr. Mattice, from the select committee to whom was referred the petition of sundry inhabitants of the towns of Blenheim and Fulton, in the county of Schoharie, praying for the passage of a law to prohibit hunting and pursuing deer with dogs,

**REPORTED:**

That the committee have had the same under consideration.— The petitioners represent that it now is, and for many years past has been, the practice in the towns of Blenheim and Fulton, in the county of Schoharie, as well by some persons resident in said towns, as by persons residing in the adjoining towns, to hunt, pursue and destroy deer in said towns, by hunting, pursuing and destroying them with dogs.

That by the fifth section of the sixteenth title of chapter twenty, of part first of the Revised Statutes, it is provided that “no person shall at any time hunt, pursue or destroy any wild buck, doe or fawn, with any blood-hound or beagle; and whoever shall offend herein, shall forfeit twelve dollars and fifty cents.”

That the statute aforesaid does not prohibit any person from hunting, pursuing and destroying deer with cur and other dogs, except hounds; and your committee are therefore of the opinion that the prayer of the petitioners ought to be granted, and have directed their chairman to ask leave to introduce a bill.



**No. 177.**

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**IN ASSEMBLY,**

**February 6, 1833.**

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**ANNUAL REPORT**

**Of George W. Gunn, an Inspector of Beef and Pork  
for the county of Cayuga.**

*To the Honorable the Legislature of the State of New-York.*

I, George W. Gunn, inspector of beef and pork of the county of Cayuga, respectfully report, that for the year 1832, I have inspected and branded 44 barrels of pork.

10	barrels	mess	pork.	
8	"	thin	mess	pork.
23	"	prime	pork.	
3	"	rusty	prime.	
<hr/>				
44				

Also,	29	barrels	mess	beef.
	23	"	prime	beef,
<hr/>				
	52			

**Fees, ..... \$17.13.**

**G. W. GUNN,**  
*Inspector.*

**January 16, 1833.**



**IN ASSEMBLY,**

**February 20, 1833.**

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**REPORT**

**Of the committee on claims, on the petition of Daniel Hadcock.**

The committee on claims, to which was referred the petition of Daniel Hadcock, praying compensation for his improvements on lands in the Oneida Reservation,

**REPORTED:**

This claim was presented to the Legislature at the last session thereof, and was then referred to the committee on claims in this House, who reported thereon; which said report is herewith submitted: that the committee have concurred in the correctness of that report, and respectfully ask leave to refer thereto.

In conformity with the views therein set forth, the committee have prepared a bill, and now ask leave to introduce the same.





**No. 179.**

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**IN ASSEMBLY,**

**February 21, 1833.**

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**REPORT**

**Of the Committee on the judiciary, on the bill entitled "An act allowing justices of the peace who shall have removed from the places for which they were appointed, to issue executions."**

**Mr. Farrington, from the committee on the judiciary, to whom was referred the bill entitled "An act allowing justices of the peace who shall have removed from the places for which they were appointed to issue executions,"**

**REPORTED:**

**That the bill referred to your committee, provides, "that any justice, before whom any judgments shall have been entered, and whose term of office shall have expired, or who shall have removed from the town or city for which he shall have been appointed, before the expiration of such term, may issue or renew executions on any such judgment, at any time within six months after the expiration of his said office, or at any time within six months after such removal." This provision, it will be perceived, is a modification of the 258th section, page 271, vol. 2, Revised Statutes, entitled "Of courts held by justices of the peace." Its object is, to extend to those justices whose office has become vacant by removal, the same powers of issuing and renewing executions as are now possessed by justices after the expiration of their term of office.**

**The statute already referred to, section 243, provides that every justice of the peace shall keep a book in which he shall enter, among other things, "the time of issuing execution, and the name of the officer to whom delivered; and if issued upon the applica-**

tion of any party, before the time when the same should regularly issue, such fact shall be noted, and the nature of the proof given;" and also, "the return of every execution, and when made; and every renewal of an execution made by him, with the date of such renewal." Another provision of said statutes, section 252, is, that "in case any justice shall remove out of the town in which he was elected, before or after his term of office expires, he shall deposit with the town clerk of such town, all the books and papers in the custody of such justice, relating to any cause or matter which shall have been heard by him, or relating to any proceedings or cause which shall have been commenced before him."

From these provisions the inconvenience which would result from the alteration of the law proposed, will readily be perceived. It is obvious that it would be impracticable, in most cases, for a justice to issue execution without access to his book of entries. This, in the case of removal from the town or county, could not be had, as his book would then be in the custody of the town clerk. The same reason would render a compliance with the provisions of the statute requiring entries to be made of the time of issuing, renewal, return, &c., of executions, impracticable.

Without detailing further objections, your committee are of opinion that the bill ought not to pass.

All which is respectfully submitted.

**IN ASSEMBLY,**

**February 21, 1833.**

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**REPORT**

**Of the committee on the judiciary, on the resolution instructing them to inquire into the expediency of increasing the compensation of witnesses and jurors in justices' courts.**

Mr. Livingston, from the committee on the judiciary, to which was referred a resolution instructing them to inquire into the expediency of increasing the compensation of witnesses and jurors in justices' courts,

**REPORTED:**

That they have given to this subject an attentive consideration. The result of their deliberations is, that it would be unwise and inexpedient to alter the existing regulations. The expense attending the recovery of small debts is now very great. To add to them would be oppressive to suitors. It would afford your committee great pleasure to relieve any portion of the people from the burdens imposed by law. But before such attempts are made, it should always be borne in mind, that there are certain duties which we are all called upon, (as good citizens,) to bear, and for which the general interest of the community requires that little or no compensation should be received. It appears to your committee, that for the obligations imposed by law upon jurors and witnesses, in our lower courts, that they are not, (within the spirit of the preceding remark,) entitled to any further remuneration than that which is now provided for by law.

All which is respectfully submitted.



**No. 181.**

**IN ASSEMBLY,**

**February 21, 1833.**

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**REPORT**

**Of the governors of the New-York hospital.**

*The Legislature of the State of New-York.*

**The governors of the New-York hospital respectfully**

**REPORT:**

That during the year 1832 there have been 1,764 patients admitted into the hospital; who with 219 patients remaining there on the 31st December, 1831, make 1,983 patients, who have received the benefit of the institution during the past year. Of that number 1,388 have been cured, 94 relieved; 70 have been discharged at their own request, or that of their friends, and 64 as improper objects; 20 have eloped, or been discharged as disorderly; 165 have died, and 182 remained on the 31st December last.

The above numbers are exclusive of the maniac patients, of whom 118 have been admitted into the Bloomingdale asylum, and with 97 remaining there on the 31st December, 1831, make 215, who have received the benefit of that asylum, during the past year. Of these 122 were old, and 93 were recent cases: 44 have been cured, 31 have been discharged improved, 26 at the request of friends; 13 have been removed to the alms-house; 15 have died; 6 have eloped, and 80 remained in the asylum on the 31st December last. Of the cures 1 was of an old case, and 43 of recent ones.

The amount of expenditures, for the immediate support of the hospital, (exclusive of the Bloomingdale asylum,) for the years 1832, has  
[Assem. No. 181.]

been \$27,040.53. The receipts, including the annuity of \$12,500 allowed by the State, the money received from the United States for the care of sick and disabled seamen, and from all other sources, amount, in the whole, to \$32,023.89, leaving a surplus of \$4,983.38. Of this surplus \$645 have been applied to the sinking fund; \$1,091.03 to the payment of a debt; \$800 towards the support of the Bloomingdale asylum, and \$1,914.62 for the expenses of the physician sent to Europe, and hereafter alluded to; leaving a final balance, in favor of the hospital, of \$532.73.

The expenditures for the support of the Bloomingdale asylum for the past year, exclusive of those above mentioned, have been \$18,650. The receipts, exclusive of the annuity of \$10,000 allowed by the State, were \$18,543.73, leaving a balance against the institution of \$106.96. Of the last mentioned annuity \$8,220 have been paid for interest on the money borrowed of William Edgar and Herman Le Roy, and the residue has been applied to the sinking fund.

The whole amount of debts due to the asylum, for board is \$9,588.28, of which a considerable part, it is probable, can not be collected.

The whole amount of debts due from the corporation on the 31st December, 1832, was \$137,000, and the sinking fund amounted, on the same day, to \$31,686.37.

In their last report to the Legislature, the governors stated that they had engaged the physician, under whose immediate charge the maniac patients had been for several years, to proceed to Europe, for the purpose of examining the best institutions for the insane in that part of the world. After an absence of fifteen months this gentleman has returned, and resumed the charge of the asylum. He has visited all the hospitals of note in Great Britain, France and Italy. And the governors hope that the mass of information, which he has obtained, will enable them to make important improvements, and will contribute materially to the benefit of the unfortunate patients under his care.

Considering how much of human misery this institution removes or mitigates, the governors trust that it will continue to

deserve and to receive the patronage which has been so often and so liberally extended to it by the Legislature.

PETER AUGUSTUS JAY,  
*President.*

ROBERT I. MURRAY, *Secretary.*





**IN ASSEMBLY,**

**February 21, 1833.**

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**REPORT**

**Of the committee on claims on the petition of Joseph Minard.**

Mr. Russell, from the committee on claims, to which was referred the petition of Joseph Minard, the surviving heir of Antoine Minard, a Canadian refugee, praying a grant of land for the revolutionary services of his said father,

**REPORTED:**

The petitioner claims to be, and probably is, the only surviving heir of Antoine Minard, a Canadian refugee, who served in the war of the revolution.

Antoine Minard's bounty land was patented to him on the 28th day of January, 1790, as appears from the Comptroller's book.

It also appears, that in 1808, (see Session Laws of that year, p. 234, sec. 6,) that the Commissioners of the Land-Office were directed to issue letters patent to the heirs of Anthony Maynard, deceased, a Canadian refugee, for 200 acres of land, in the refugee tract, for the revolutionary services of the said Anthony Maynard.

It now appears, and is so conceded by him, that the present petitioner was one of those heirs, and that the patent was issued pursuant to the law of 1808. The claim then must have been made and sustained upon the ground, that their ancestor, for whose services the grant was made, was Anthony Maynard, not Antoine Minard. It is, however, now obvious, that Antoine Minard was the soldier for whose services the aforesaid grant of 200 acres was made in 1808; this grant too, must have been made by the government, and the land received by the petitioner in satisfaction for the

claim now advanced; and whether the ancestor was known by the name of Antoine Minard or Anthony Maynard, cannot be very essential to inquire. The petitioner claims to be his heir at law by whatsoever name he was known, and did in fact participate in the benefits of the law of 1808.

But it is now alleged that there were two persons by the name of Antoine Minard, both soldiers of the revolution, and both Canadian refugees, one a captain, and the other a private soldier; that there was one who was a private soldier is certain, for his name appears on the returns in the Comptroller's office; but that there was another of the same name, who was an officer in the same service, is not so certain; none such is to be found on the books in said office, and which is prima facie evidence that none such existed; but yet it may be open to explanation, and the petitioner supposes that this prima facie evidence is overcome by the testimony which he has adduced. If the view herein before expressed in relation to the law of 1808 be correct, it will not be necessary to inquire how far the additional testimony countervails that arising from the books. This point, however, together with the merits of the whole claim has been so fully and ably discussed, and presented to the Legislature by the committee on claims in this House, in the year 1831, that the committee have thought it would be a work of supererogation to go further into detail, and beg leave to refer to that report, (which is herewith submitted,) as presenting more in detail the views of this committee.

Under every view which the committee have been able take of this claim, they can arrive at no other conclusion than that it cannot reasonably be granted, and therefore offer for the consideration of the House the following resolution:

*Resolved*, That the prayer of the petitioner, Joseph Minard, ought not to be granted.

**No. 183.**

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**IN ASSEMBLY,**

**February 21, 1833.**

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**REPORT**

**Of the Committee on the judiciary, on the petition  
of Huldah Randall.**

Mr. Livingston, from the committee on the judiciary, to which  
was referred the petition of Huldah Randall,

**REPORTED:**

That the petitioner prays for the passage of an act authorizing her to sell an undivided half part of a farm in Herkimer county. It appears from the statements of the petitioner, that her late husband, Joshua Randall, deceased, together with his brother, Jared H. Randall, made a joint purchase of a farm in Herkimer county, in the year 1829. The said Jared H. is now willing to purchase the half part of the said farm in which the petitioner and her children are interested, at an advanced price from the purchase money agreed to be paid for the said property. But, she alleges that if the said Jared H. cannot make the said purchase, that then he is determined to apply for a division of the said farm, and to have his half part set off to him. To avoid the expense and trouble of the said supposed grievance, the petitioner wishes a law passed, giving to her the right to sell upon certain terms, her interest and that of her children, in the said farm.

Your committee have no doubt that this application is made in good faith, and would with pleasure recommend, that the prayer of an industrious and enterprising widow, who has been left by a providential affliction, to sustain, alone and unaided, a large family of children, be granted, were it not that the precedent thus set would open the door to numerous applications of a similar nature. The effect of which would be that we should be found assuming

to ourselves the powers and duties which properly belong to courts of justice. Ample provision is made by statute, for cases like that of the petitioner. She can have a guardian appointed for her children, and cause a partition of the property to be made, in the manner pointed out by the laws of the State.

For the reasons stated, the committee think the prayer of the petitioner ought not to be granted.

All which is respectfully submitted.

**No. 184.**

**IN ASSEMBLY,**

**February 21, 1833.**

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**REPORT**

**Of the Attorney-General, on the petition of John A. Ferrell.**

The Attorney-General, to whom was referred, by the Assembly, the petition of John A. Ferrell, respectfully submits the following

**REPORT:**

The petitioner, in 1817, purchased of the State lot No. 2, of block No. 13, in the village of Oneida Castleton, and like most other purchasers at that sale, agreed to pay much more than the land was worth. In 1822, he purchased block No. 33, in the same village, at a price beyond its value. On each sale he paid a part of the purchase money, and executed his bond to the people for the payment of the balance. Both bonds amounted to \$463. A large amount of interest being in arrear, the petitioner was sued on the bonds, and a judgment has been recovered and execution issued against him. He now represents that he is unable to pay the judgment; and prays that the State will release him, and take back the lands, or have them re-appraised.

The Attorney-General has satisfactorily ascertained that the petitioner is wholly unable to pay the judgment, and that the State will lose nothing by cancelling the sale on payment of the costs.

Respectfully submitted.

**GREENE C. BRONSON,**

*Attorney-General.*

*February 20, 1833.*

[Assem. No. 184.]



**No. 185.**

**IN ASSEMBLY,**

**February 21, 1833.**

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**REPORT**

**Of the committee on the judiciary on the petition of  
Joseph J. Deseamus, for divorce.**

Mr. Livingston, from the committee on the judiciary, to which  
was referred the petition of Joseph J. Deseamus,

**REPORTED:**

That the petitioner asks the Legislature to pass a law divorcing  
him from his wife, on the alleged ground of her having been guilty  
of adultery.

Your committee have on a previous occasion assigned their rea-  
sons why the Legislature should not interfere in granting divorces  
in any case of adultery. They beg leave to refer to their report  
upon the petition of Levi Longwood; and for the general reasons  
there stated, they recommend that the prayer of the petitioner be  
denied.

All which is respectfully submitted.





**No. 186.**

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**IN ASSEMBLY,**

**February 7, 1833.**

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**REPORT**

**Of the committee on claims, on the petition of  
Truman Spencer.**

Mr. Russell, from the committee on claims, to which was referred the petition of Truman Spencer, praying compensation for revolutionary services,

**REPORTED:**

The petitioner states that he was a soldier in the war of the revolution: That he enlisted in March, 1782, in the regiment of New-York State levies commanded by Col. Marinus Willet, for the term of nine months, with a promise that he should have a bounty of two hundred acres of land from this State: That he served the said term of service, and was duly discharged on the 31st day of December, 1782, at Fort Plain: That he has never received from the State the said two hundred acres of land, or compensation for said services. He now asks the said two hundred acres of land, as an equivalent therefor.

The committee do not find that the claim of the petitioner can be sustained upon any principle heretofore adopted for the settlement of claims growing out of the war of the revolution; and however willing they might be to administer relief to the soldiers of the revolution, they would not feel themselves justified in adopting a new rule of practice upon that subject. They are of opinion that the prayer of the petitioner ought not to be granted, and offer for the consideration of the House the following resolution:

*Resolved*, That the prayer of the petitioner ought not to be granted.



**IN ASSEMBLY,**

**February 7, 1833.**

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**REPORT**

**Of the select committee, on the petition of the commissioners for loaning money in the county of Chenango.**

Mr. Hyde, from the select committee to which was referred the petition of the commissioners for loaning money in the county of Chenango,

**REPORTED:**

That the petitioners represent, that in the years 1829, '30 and '31, without a knowledge of the passage of the act of 30th March 1829, they continued to reloan all the principal paid in to them in conformity to the previous law on that subject: That said loans were made in good faith: That there remained due on the mortgages taken for said loans in the years 1829, '30 and 31, the sum of \$1,977.96; and they pray that a law may be passed, confirming their acts in relation thereto. Your committee are of opinion that the prayer of the petitioners is just; that legislative aid is necessary, and have directed their chairman to ask leave to introduce a bill.



**IN ASSEMBLY,**

**February 7, 1833.**

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**ANNUAL REPORT**

**Of Andrew Wilson, an Inspector of Beef and Pork  
for the city and county of New-York.**

*To the Honorable the Legislature of the State of New-York.*

I beg leave to report for your information, that I have inspected in this city from the first day of January, 1832, to the 31st December, 1832, the following undermentioned provisions.

1,320 barrels mess beef.  
178 half barrels mess beef.  
4,284 barrels prime beef.  
94 " cargo beef.  
50 " unbrandable beef.

674 barrels mess pork.  
1 half barrel mess pork.  
1,585 barrels prime pork.  
25 half barrels prime pork.  
872 barrels unbrandable pork.  
1 half barrel unbrandable pork.

Amount of fees received, . . . . . \$1,352 35

**ANDREW WILSON,**  
*Inspector of Beef and Pork.*

*New-York, February 2d, 1833.*



**No. 189.**

**IN ASSEMBLY,**

**February 7, 1833.**

**ANNUAL REPORT**

**Of Hiram Scofield, an Inspector of Fish for the city  
and county of Albany.**

*To the Honorable the Legislature of the State of New-York.*

Agreeable to an act of the Legislature of the State of New-York, to provide for the inspection of fish, the undersigned would respectfully report, that since the first day of January, 1832, to the first day of January, 1833, inclusive, I have inspected the following, fish, viz;

32	barrels of No. 1 mackerel, at 1s. per barrel,.....	\$4 00
22	“ 2 “ “ ..... 2 75	
68	“ 3 “ “ ..... 8 50	
653	barrels of salmon, at 1s. per barrel, ..... 81 68	
117	half barrels of No. 1 mackerel, at 1s. per half barrel, 14 62	
259	“ “ 2 “ “ “ “ 32 38	
130	“ “ 3 “ “ “ “ 16 25	
150	half barrels salmon, at 1s. per half barrel,..... 18 75	
200	barrels of dry salted herrings, at 1s. per barrel,.... 25 00	
		<hr/>
		\$203 88
	Deduct for labor hire and other expenses,..... 98 74	
		<hr/>
		\$105 14
		<hr/>

**HIRAM SCOFIELD,**  
*Inspector of Fish,*

*New-York, 25th January, 1833.*

[Assem. No. 189.]





IN ASSEMBLY,

February 7, 1833.

ANNUAL REPORT

Of Thomas Moor, an Inspector of Beef and Pork  
for the city and county of New-York.

*To the Honorable the Legislature of the State of New-York.*

Agreeable to an act of the Legislature of this State, to provide  
for the inspection of fish, that since the first day of January, 1832,  
to the first day of January, 1833, inclusive, I have inspected the  
following fish, viz:

315	barrels	herring,	at	1s.	.....	..	\$39	38
38	"	No. 1	mackerel,	at	1s.	.....	4	75
68	"	No. 3	"		.....		8	50
41	"	pickled	codfish,	at	1s.	.....	5	13
52	half	barrels	No. 1	mackerel,	at	1s.	6	50
192	"	2	"		.....		24	00
16	"	3	"		.....		2	25
283	barrels	salmon,	at	1s.	.....		35	38
14	half	barrels	salmon,	at	1s.	.....	1	75
							\$127	64
Deduct for labor and hired expenses,.....							51	75
							\$75	89

All which is respectfully submitted.

THOMAS MOOR.

New-York, January 30, 1833.



**IN ASSEMBLY,**

**February 11, 1833.**

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**ANNUAL REPORT**

**Of Ebenezer L. Boynton, an Inspector of Beef and  
Pork for the city of Troy.**

*To the Honorable the Legislature of the State of New-York.*

I, Ebenezer L. Boynton, an inspector of beef and pork, residing in the city of Troy, in the county of Rensselaer, do certify and report, that since the first day of February, 1832, I have inspected 4,470 barrels of beef, as follows, viz:

2,871	barrels of prime beef,	value per barrel,.....	\$5 25
1,435	" mess beef,	" " .....	8 25
164	" cargo beef,	" " .....	4 25

And during the time aforesaid, I have inspected 2,902 barrels of pork, as follows, viz:

1,853	barrels prime pork,	value per barrel, ... ..	\$11 00
989	" mess pork,	" " .....	14 00
60	" cargo pork,	" " .....	10 12

In the whole of beef and pork, 7,372 barrels, at 15 cents per barrel for inspection, amounts to \$1,105.80.

**E. L. BOYNTON,**  
*Inspector.*

**Troy, Feb. 1st, 1833.**



**IN ASSEMBLY,**

**February 11, 1833.**

**Of Dennis Belding, an Inspector of Beef and Pork  
for the city of Troy.**

*To the Honorable the Legislature of the State of New-York.*

I, Dennis Belding, an inspector of beef and pork, residing in the city of Troy, in the county of Rensselaer, do certify and report, that since the first day of February, 1832, I have inspected 753 barrels of pork as follows, viz:

484	barrels	prime	pork,	value	per	barrel,	.....	\$11	00
24	"	mess	pork,	"	"	"	.....	14	00
225	"	cargo	pork,	"	"	"	.....	10	00
15	"	rusty	prime	pork,	"	"	.....	9	50
4	"	rusty	mess	pork,	"	"	.....	12	50

In the whole of pork, 753 barrels, at 15 cents per barrel for inspection, amounts to \$112.95.

**DENNIS BELDING,**

*Troy, Feb. 1st, 1833.*

[Assem. No. 194.]



**No. 195.**

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**IN ASSEMBLY,**

**February 11, 1833.**

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**ANNUAL REPORT**

**Of Philip French, an Inspector of Sole Leather for  
the county of Tompkins.**

*To the Honorable the Legislature of the State of New-York.*

The undersigned, an inspector of sole leather in and for the county of Tompkins, begs leave respectfully to report, that the whole number of sides of sole leather by me inspected from the first day of July, 1832, at which I received my commission, to the first day of January, 1833, is nine hundred and ninety, seventy of which I marked damaged, and nine hundred and twenty good, the whole weighing 14,082 pounds; that the value as near as I can estimate the same, is two thousand eight hundred eighty-one dollars and forty cents. That the amount of fees by me received for said inspection, is thirty nine dollars and sixty cents.

The undersigned would further report, that the tanning business has been greatly extended during the last year in this town, and that not sufficient time has elapsed to have the last spring's stock sufficiently tanned, in consequence of which the amount of the present will greatly exceed that of the past.

All which is respectfully submitted.

**PHILIP FRENCH,**

*Lansing, Tompkins Co. Jan. 28, 1833.*





**No. 197.**

**IN ASSEMBLY,**

**February 25, 1833.**

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**REPORT**

**Of the Commissioners of the Land-Office, on the petition of the inhabitants of Fort Covington.**

The Commissioners of the Land-Office, to whom was referred, by the Assembly, the petition of the inhabitants of Fort Covington for a grant of lands to the trustees of Fort Covington academy, respectfully submit the following

**REPORT:**

The lands described in the bill reported by the committee on the public lands belong to the common school fund. (See Attorney-General's report at the present session, Assembly Documents, No. 41.) The applicants now request a grant of the lands belonging to the State at Fort Covington, called the military lands. By the act of April 20, 1818, (Laws, 1818, p. 172,) certain commissioners were directed to lay out one or more villages, on the Mile Square of the St. Regis reservation. The second section of the act was in the following words: "*And be it further enacted, That previous to the laying out of the said village or villages, the person administering the government shall direct the said commissioners to survey and lay out, so much and such parts of the said reservation, not exceeding in the whole sixty acres, as he shall deem proper, to be set apart and be reserved for public purposes, to be hereafter designated by the Legislature.*" In pursuance of this section the Commissioners, under the direction of the Governor, set apart and reserved for public purposes two parcels of land, on the Mile Square, the one containing thirteen, and the other forty-eight acres, amounting together to sixty-one acres of land. These are high lands, situated on the margin of Salmon river, and commanding its navigation, and were used for military purposes during the

late war with Great Britain. The Commissioners are of opinion that those lands do not belong to the common school fund, and may be sold, or otherwise disposed of, in such manner as the Legislature may deem expedient.

Respectfully submitted.

GREENE C. BRONSON, *Att'y Gen.*

SIMEON DE WITT, *Sur. Gen.*

A. C. FLAGG, *Comptroller.*

JOHN A. DIX, *Secretary.*

*February 22, 1833.*

**No. 198.**

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**IN ASSEMBLY,**

**February 23, 1833.**

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**REPORT**

**Of the committee on medical subjects, to whom was referred the petitions of sundry inhabitants of this State, respecting the practice of physic.**

Mr. Lee, from the committee to whom was referred petitions from sundry inhabitants of the State of New-York, praying for a *repeal* of so much of the act, entitled "An act concerning the practice of physic and surgery," passed April 7, 1830, as authorizes *any* person to use or apply, for the benefit of any sick person, any *roots, barks or herbs*, the growth or produce of the United States,

**REPORTED:**

*First.* Your petitioners complain, that by the above act the *lives* and health of the community are endangered by allowing all persons to use or apply any articles as medicines, in the form of *roots, barks or herbs*, the growth or produce of the *United States*, when upon examination it is ascertained that this embraces more than two-thirds of the whole number of medicines now in creditable use, and full four-fifths of all medicines of the vegetable kingdom; this four-fifths comprising nearly all the *vegetable poisons*. Thus throwing into the hands of the ignorant or unprincipled and irresponsible, the most subtle, virulent and speedily fatal agents upon the human system, unguided by science or experience.

*Second.* That there are abundant evidences to warrant the conclusion that these unlicensed practitioners make free, but covert use, of the most dangerous, (in such hands,) articles, from the mineral kingdom; but with such secrecy as to render detection impossible, short of submitting the body of the victim to a chemi-

cal analysis, which, in general, is attended with too many difficulties to warrant the investigation.

*Third.* That it is unequal in its operation, while it gives to the empiric two-thirds of the whole of the privileges attained by the regular practitioner, after having spent at least three years of laborious study, attended with great expense of time and money, to acquire a scientific and correct knowledge of the *healing art*, without subjecting them to any of the responsibilities and penalties incident upon mal practice, &c. on the part of the regular licensed practitioner.

*Fourth.* That it is *degrading* the science of medicine to place its scientific and well qualified votary so nearly upon a par with the *illiterate, unprincipled* or ignorant quack, and thereby often smothering a laudable ambition in the pursuit of an honorable attainment, from a knowledge that he, at most, can only share, and that with ignorance, the *just rewards* of his labors and merits.

*Fifth.* That the "botanic physicians," almost without exception, are utterly unqualified to form a correct opinion of the natural and probable consequences of any disease, or as to the proper remedies to be applied in different and distinct cases, or even as to the peculiar virtues and properties of the several remedies they *profess* to use; and, in *lieu* of correct knowledge, substitute *secrecy, chicanery* and deception.

The committee, after having duly examined and considered the subject of complaint, on the part of your petitioners, respectfully beg leave to submit, that in their view, they can readily conceive that the act, or that part of it above referred to, has produced effects and results contrary to the probable anticipations of those who were its advocates and supporters; and that instead of being instrumental in dispensing *benefits* and *blessings* to community, it opens the door and offers inducements to the *unprincipled, illiterate empiric*, to impose upon the credulous and unsuspecting, by assuming a knowledge of the mysteries of the *healing art*, by some special dispensation; and, to give color to these pretensions, use every means that they are masters of to cloud and mystify the true *science* and *knowledge* of medicine; thereby retarding and preventing the spread of useful information, by smothering the natural and inestimable propensities of our natures, which *impel* to an inquiry into *causes* and *first principles*; the *seat of science*, from

whence *she* points her votaries to the true paths of wisdom and knowledge.

It is also the opinion of the committee that the age in which we live has advanced too far in a knowledge of the arts and sciences, and is too familiar with the blessings and benefits arising from them ever to wish a return of the days of ignorance, superstition and witchcraft; and that the general sense of community will sustain those in whom they have vested the power to make *laws* in the enactment of *none* that, in their operation, are calculated to prevent, or in any way retard, the spread of useful and correct knowledge, or *degrade* any of the necessary, honorable and important professions.

That the professions of physic and surgery are among this class it is presumed, at this day, needs no argument to prove: and, that a *correct knowledge* of them can be acquired, without much *arduous* study, practice and investigation, and at an expense of considerable time and money, is only pretended by those who deal in mystery, superstition and quackery, for the want of science and correct information.

In support of these positions the committee beg leave to suggest, that as yet, within their knowledge, there has never occurred an instance of a *scientific practitioner*, or a *man of acknowledged general science*, who has admitted the theory of the botanic physicians, by confining himself to the use of the roots, barks and herbs of the United States, to the entire exclusion of all *others* of the *vegetable kingdom*, together with all *minerals*, as well of our own as other countries, in the practice of medicine.

Is there not in the *idea itself* a palpable contradiction of one of the most universally acknowledged laws of nature, viz: That nothing was made in vain? Is it not *equally* unsupported by the *laws of nature, science, philosophy* and human reason? And have not ignorance, superstition and empiricism ever been at *war* with philosophy and science, and all liberal and enlightened research?

When we consider the multiplicity of diseases to which the human family are liable, their fickle variableness, the constant liability to which we are exposed from the visitation of new and unknown diseases, and the dangers consequent upon ignorance of their natures and effects, some estimate may be formed of the difficulties attending the acquirement of a knowledge of the pro-

fession, and of the constant necessity for study, investigation and practice to keep pace with the changes which time must ever produce. And it is clearly evident that the *healing art* could never have been brought to that degree of perfection which it has attained, short of the most devoted application of human reason, aided by science and untiring research.

It is pretended that the act herein alluded to is calculated to present inducements for the encouragement of the study of botany, and thereby to dispense to the world many blessings by becoming acquainted with specifics which a more extensive and thorough investigation of the vegetable kingdom would place at our disposal. Hence the reason for this band of new lights classing themselves under the appellation of botanic physicians, thereby carrying the idea that they are possessed of a knowledge of the medicinal qualities of the plants of the United States, that is not required of the regular licensed practitioner. How far this position is entitled to credit will appear from the following facts as viewed by the committee.

1. That a very great proportion of the medicines now in use by the regular faculty are derived from the vegetable kingdom.

2. A large proportion of these *vegetable* medicines are the products of the United States.

3. That the laws regulating the practice of medicine require that a knowledge of the principles and nature of medicines, as well as diseases in general, must be attained by the student of medicine, before he can be admitted to practice as a member of the faculty. And as American vegetables form so great a proportion of the medicines in use, a knowledge of *botany* is consequently indispensable to the regular profession. And the committee can readily conceive that the knowledge acquired in this useful branch of science, by the two parties, is in general quite as disproportionate as is the character of the learned and scientific proficient in medicine, compared with that of the plodding, unlicensed imitator. And on the contrary, the effect is rather to retard the diffusion of useful knowledge by reducing the regularly educated physician to a level with the *empiric* or *ignoramus* both in his character and the fruits of his labors.

The committee having thus briefly set forth their views of this subject, and having taken into consideration the fact, that the sister

professions, viz: law and divinity, are, by the *laws* of the State, protected against the encroachments of unqualified intruders, as in justice they ought to be; and considering, as *we do*, that the professions of *physic* and *surgery*, stand at least, equal, in point of honorable attainments and importance to any, and are therefore entitled to their due share of protection from the arm of the law. And being fully convinced from the facts set forth, as well as from the dictates of our own reason, that that portion of the act entitled, "An act regulating the practice of physic and surgery," passed April 7th, 1830, and complained of by your petitioners, is unequal in its bearings, and pernicious in its effects, both upon the faculty and community at large, and therefore ought, in our opinion, to be repealed.





**No. 199.**

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**IN ASSEMBLY,**

**February 26, 1833.**

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**REPORT**

**Of the select committee, appointed pursuant to a resolution of the Assembly, passed March 27, 1832, to examine into the state of the prisons at Mount-Pleasant and Auburn.**

**To the Hon. CHS. L. LIVINGSTON,**  
*Speaker of the Assembly.*

**SIR—**

The select committee appointed by the Hon. the Assembly, pursuant to a resolution passed March 27th, 1832, to visit the State Prisons at Mount-Pleasant and Auburn, to examine into the state of said prisons, the manner in which their accounts are kept and affairs conducted, with instructions to report the result of their inquiries to the then next Legislature, have the honor herewith to transmit their report.

With great respect,

Your obt. servts.

**I. R. VAN DUZER,**

**R. D. DODGE,**

**WM. SEYMOUR,**

*Committee.*



## REPORT, &c.

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The select committee, appointed by the Honorable the Assembly, pursuant to a resolution passed March 27th, 1832, to visit the State Prisons at Mount-Pleasant and Auburn, to examine into the state of said prisons, the manner in which their accounts are kept and affairs conducted, with instructions to report the result of their inquiries to the then next Legislature,

### RESPECTFULLY REPORT:

That during the recess of the Legislature they have performed the duty assigned to them, by visiting those institutions, and bestowing upon the subject committed to their investigation the attention which seemed to be required at their hands. It will doubtless be remembered by the members of the present Legislature, who were members of the last, that the resolution for creating the committee originated from the debate in the Assembly upon the bill from the Honorable the Senate, appropriating \$30,000 for the current expenses of the prison at Mount-Pleasant, (including expense of some additional buildings,) beyond the earnings of the convicts.

In view of the great difference in the pecuniary results of the operations of the two institutions, serious opposition was made to the appropriation by a considerable portion of the members who even eventually voted against the bill, (although necessary for the very sustentation of the prisoners,) whilst the same causes apparently induced doubts upon the minds of a large majority as to the efficient or judicious management of the prison at Mount-Pleasant.

The resolution was made to embrace the prison at Auburn, that the committee might the better understand the discipline enforced there, its internal police, the manner in which the labor of the convicts was regulated and its business conducted, (productive as the institution had been for the last few years of such prosperous re-

sults to the State,) that they might compare the same with the same subjects at the other prison, and thus be enabled to recommend to the consideration of the Legislature, such measures as would produce a conformity in the affairs of the two institutions, if any material difference was found to exist.

The committee regret that they were prevented entering upon the discharge of their duties at an earlier period in the season than they were enabled to do, which has necessarily delayed the coming in of their report. The cholera which prevailed to such an alarming extent, during the last summer, particularly in the city of Albany, (requiring the undivided attention of one of the committee, (Mr. Seymour,) who was a member of the common council,) and which raged with so much violence in the prison at Sing-Sing, admonished us to defer entering upon the discharge of our official duties until the month of October.

In the early part of the summer the chairman of the committee was informed by letter, from a very respectable source, that some complaints of a serious character would probably be preferred against some of the officers having charge of the affairs of the Auburn prison, and soliciting a notice of the time to be appointed for visiting that place. That the same might be investigated, such notice so solicited, was given in ample time, and although the person who had thus communicated such request had frequent interviews with the members of the committee, during their stay at Auburn, no such charges were preferred, no complaints made against the perfectly correct deportment of the officers entrusted with the management of the institution.

The committee remained at Auburn for one week, during which time they had ample opportunity to examine the state of the prison and understand the manner in which its affairs are conducted; and they can not withhold the expression of their high consideration for the earnest solicitude manifested, by the Inspectors, Agent and other officers attached to the establishment, to afford every facility to the committee in the discharge of the duties assigned to them.

The committee hardly deem it necessary to give a detailed report of the plans of the prison, its cells or its work shops; these matters will be found so fully detailed, in the various legislative

documents, the reports of the Inspectors, &c. as to require no particular information from us. So far as the whole arrangement is to be considered with a view to economy, durability and safety, whilst a humane regard for the health and comfort of the convicts should have its proper influence, the committee discovered nothing upon these points worthy particular recommendation, as calculated to improve the character of our admirable penitentiary system, as exhibited at Auburn.

Whilst concurring with the Inspectors, as to the alterations recommended in the 6th page of their annual report, (Senate Documents, No. 20,) the committee would also recommend to the particular attention of the Legislature the condition of the roofs of the whole prison establishment. Those roofs consist of shingles, which are exposed to take fire from the various chimneys proceeding from the establishment. The committee are of the opinion that a proper regard to safety, as well as economy, would recommend that the same be covered with tin, slate, or some other durable and fire proof material. The probable expense of this improvement the committee are not prepared particularly to estimate, but are of the opinion that the profits from the labor of the convicts for the current year, in addition to the surplus funds of the prison now on hand, would go far towards defraying the expenses of the work, in addition to the alterations recommended by the Inspectors, above referred to; at all events, should the Legislature agree with the committee, in this particular, the act might be so framed as to authorise the proper officers to proceed with the work, as fast as the accumulation of the funds, beyond the support of the prison, will admit.

Another consideration presented itself with much force to the committee. From the extensive work shops already established in the prison yards, the large number of convicts confined, and the probable increase of that number as the population of the State shall increase, it is obvious that at no very distant day a larger space will be required, as well for the health of the prisoners as for their profitable employment. The committee are clearly of the opinion that if any extension of our prisons should be required hereafter, it would be most advantageous to the State that such extension should be connected with, or be in the immediate neighborhood of those already erected. The reasons for this will readily suggest themselves to the Legislature; the most prominent of

which are the advantage of employing the labor of the prisoners in the erection of the new buildings, under the direction of our present officers, and the much greater facility of extending the business and discipline to an additional number of convicts, under the supervision of experienced men, than the organization of an entire new establishment. With these views the committee would recommend that a law be passed authorising either the present officers of the Auburn prison, or some other persons, to negotiate for or purchase, in behalf of the State, under such restrictions as may be advisable, an additional piece of land, either adjoining to, or in the near neighborhood of the present prison. The State, at present, is possessed of but five acres; an addition of ten or fifteen acres would, if it could be procured upon reasonable terms, appear to be a provident course of policy on the part of the State. The unbounded quarries of superior building stone in the neighborhood, which may be procured at a very reasonable rate, as well for the erection of any additional buildings, walls, &c. for the prison itself, as for the buildings in the flourishing and rapidly increasing village of Auburn, (furnishing a valuable source of employment for the convicts,) are strong additional recommendations to the course above suggested.

With regard to the discipline and internal police of the prison, as well as a full history of the manner in which its affairs and business are conducted, the committee herewith communicate a succinct statement furnished by Col. Lewis, the Agent at Auburn, and would also refer your honorable body to "a communication of Gershom Powers, keeper of the prison at Auburn, made to the Assembly January 7th, 1828," under title Appendix A, in the Assembly Journal of that year, upon the same subjects. It is perhaps proper in this place, to observe, that we were assured by Mr. Wiltse, the Agent at Mount-Pleasant, that the document last referred to contains the rules and regulations so far as it regards the prison discipline by which the institution under his charge is governed.

The description of the Auburn prison at that period (to which it is easy for every member of your honorable body to add the additions made since, by adverting to the annual returns of the Inspectors;)

The general government of the prison, with some trifling alterations made by the Revised Statutes, and the act of 1832;

The duties and powers of the officers, guards and convicts;

The regulations of the shops, with which are connected the privileges and obligations of contractors;

The whole police and regulations of the prison presented under the various heads and departments;

The statistics as to the character of the convicts before sentence, and the salutary effect of the punishment, as witnessed from their course of life after their discharge; together with much other interesting information upon the penitentiary system, collected from various sources, are so fully set forth in the document referred to, that a recapitulation of them beyond what is set forth in the communication hereto annexed, marked B, would seem to be a work of supererogation.

Since the period of that report, adhering to the principles of governing the prisoners and directing their labors, as therein set forth, with very trifling alterations, the confident assurances of this meritorious benefactor of the State have by his own, and the exertions of his successors in the management of the institution, been fully realized, and the annual return of the Inspectors this year, presents the interesting fact, that 220 additional cells, (for which \$12,876.36 was actually paid out for materials and superintendents of work, and a work-shop, the materials for which are estimated to have cost at least \$800,) have been built by the convicts themselves for their own solitary confinement and exclusion from the world, out of the proceeds of their own labor, after having sustained every other expense for the support and maintenance of the establishment, still leaving a balance in the hands of the Agent of \$3,528.16 to be appropriated as may be required. By adverting to the annual reports since the communication above referred to, it will be found that there has been a gradual annual increase of the profits of the institution.

Your committee have reflected upon the prosperous results above referred to, with a becoming interest in the subject committed to them. The history of the world has not until within a very few years presented so imposing a moral spectacle. A few years since even in our own country, the idea of realizing from the labor of those, who had, by offending against the laws, been cut off from society, a sufficient amount to sustain the expense of their confinement, was regarded as a dream of the speculative visionary. It was left among other important discoveries which can only eme-



nate from the exalted spirit of free governments, to demonstrate the necessity in all moral improvements, of addressing the mind by instruction and persuasion, instead of inflicting bodily chastisement. That reform is ten thousand times more certain when you can correct the intellect of man, and give it a proper direction, than all the physical torture which can be imposed; whilst the former is calculated to elevate the whole man, constantly stimulating him to a correct discharge of his duty towards his God and his fellow-man, the latter is as eminently adapted to creating and cherishing the most vindictive passions of our nature.

These remarks are prompted by the difference exhibited not only in the labor pursued in the two institutions, but the apparent disposition entertained by the convicts in each, which will be more fully presented in the sequel.

For the manner in which the accounts of both prisons are kept, it will be perceived by adverting to the 2d vol. of the Revised Statutes, pages 764 and 765, that this branch of the duty of the officers of the prisons has been regulated by the Legislature. The accounts until the last year were only required to be returned and filed in the Comptroller's office. But by the act passed last winter, and before referred to, those accounts, authenticated in the form required by the Revised Statutes, sworn to by the Agent and clerk, are presented, and accompany the report of the Inspectors of each prison. They present the subject so fully to the Legislature that it is only necessary to refer to them at present.

The committee have examined this branch of the subject, and do not deem it necessary to alter in any particular, the provisions of the law. All the provisions to secure a faithful account from the officers of the financial operations entrusted to them, having, in the opinion of the committee, been as fully secured as can be accomplished by legislation.

After having examined the prison at Auburn, the committee availed themselves of an early opportunity to inspect the prison at Mount-Pleasant. In regard to the state of the buildings at this institution, your committee can assure your honorable body, that nothing can, in their opinion, exceed their very excellent arrangement, and their adaptation to the objects for which the same were designed, to the extent finished. But that the establishment is altogether incomplete, and the manner in which the business is car-

ried on, as well as the character of the business itself, is but illy calculated to accomplish the great objects of modern punishment, struck your committee most forcibly when they came to compare the result of their inquiries at Auburn, with those at Sing-Sing. At the former place, they found the convicts apparently resigned to their fate, penitent of their past offences, of a humbled spirit, and, so far as the committee were capable of judging the great moving principles of human action, determined, when their term of punishment shall have expired, to use all efforts to restore themselves to the good opinion of society, and to live upright and honest lives. This spirit was not only evinced by the ready and apparently sincere submission to the rules and regulations of the prison, the order and system observable through all the departments of the work-shops, but more forcibly testified from the examination by the committee, of one prisoner taken promiscuously from each of the shops of the prison.

It was urged in the debate upon the passage of the resolution constituting the committee, that if no other reason existed, the fact that some 1500 or 1800 of our fellow-beings were confined within the solitary walls of a prison, excluded from society, with no person to whom they could tender their complaints of cruel or oppressive treatment, except the very individuals who might violate the rules of humanity, was sufficient, nay, imperative upon the Legislature, occasionally to investigate their condition and treatment. With this view, the committee, after having discharged what they deemed to be their duty at Auburn, in inspecting the prison, the condition of the convicts, their employment, government, and all the incidents, so far as they could derive instruction from their own observation, and from the information of the officers, proposed to the agent, that the committee should have the opportunity of examining some of the prisoners separate from any of the officers of the prison. This request was readily and promptly complied with by the agent, Colonel Lewis, who took our instructions as to the manner in which they should be presented. We directed that one convict from each shop and department should be examined, and in complying with this direction, the agent, at our request, produced some individuals from those various shops, who had been convicted in the counties where the members of the committee resided. We have no reason to sup-

pose that any communication of the object of the committee was made to the convicts. Several of the convicts thus examined had been confined in the Mount-Pleasant prison and removed thence to Auburn, all of whom concurred in complaining of the severe and harsh treatment experienced at the former, whilst they equally united in bearing testimony to the kind and benevolent treatment at the latter. It is perhaps unnecessary to give the details of their statements in full. The prominent grounds of complaint consisted in not having had allowed to them sufficient food to satisfy the cravings of their appetite, and in the most violent infliction of corporeal punishment, for very slight offences against the rules of the prison, not with the ordinary instrument of punishment, (called the cat,) but frequently by blows dealt upon the head and various parts of the body, with the usual walking staves of the assistant keepers, (which mode of punishment the committee do not hesitate to pronounce cruel in the extreme, and as inconsistent with the good discipline of the prison, as it is repugnant to every principle of humanity); whilst at the same time, not only those who had been before confined in the Mount-Pleasant prison, but every one of the others examined by the committee, bore most cheerful testimony of the kindness, the moderation and benevolence of their treatment at Auburn, most of them not having received any corporeal punishment since their confinement there, and those who had, uniformly admitting the justice of what had been inflicted upon them, and all admitting that their provisions and clothing were not only wholesome, agreeable and comfortable, but at all times abundant.

Upon the subject of provisions, it is perhaps well, in this place, to call the attention of the Legislature to the reports from the different prisons, as to the mode of supplying the prisoners. At Auburn the prisoners breakfast and dine together, in a mess room, and waiters supply the deficiencies of rations of the more hungry or hearty eaters from the surplus of the less robust, and at all times, (which is seldom necessary to be resorted to,) supplying any general deficiency from a general stock, prepared for that purpose; whilst at Mount-Pleasant, from the want of such a room, the convicts are necessarily compelled to take their rations with them to their cells; and, although the committee was assured, by the Agent of the latter prison, that ample provisions were, at all times, supplied for the prisoners at every meal, the statements of

the prisoners not only contradicted that assurance, but added that they had sometimes had blows inflicted upon them, accompanying a refusal of their request to grant them an additional supply. It is only necessary for the committee to add, upon the subject of the treatment of the prisoners, that they likewise examined a number of the convicts at the Mount-Pleasant prison, as to their treatment, which examination was also conducted separate and apart from any of the officers. They feel it their duty also to premise by observing, that the propriety of the request of the committee for this purpose, so readily complied with by the Agent of the Auburn prison, was much disputed and discussed by the Agent at Mount-Pleasant, and to add their regret that it seemed to be reluctantly complied with. Several of the convicts were however presented who concurred with those at Auburn, formerly confined at Mount-Pleasant, in representing their punishment as cruel in the extreme; and, if their representations are to be credited, in the opinion of the committee, altogether unjustifiable. Your committee refrain to enlarge upon this topic; they are aware that the source of the complaints is, perhaps, unworthy of credit. It was the only evidence, however, to which we could resort, on the part of the prisoners, as to any improper or cruel treatment. The committee are willing, as your honorable body doubtless will be, to consider the officers innocent of any improper treatment, until proof to the contrary be furnished: and, without further comment, the committee respectfully submit, for your consideration, all the testimony upon this branch of their duty which came to their knowledge.

The character of the business at the Mount-Pleasant prison, and the manner in which it is conducted, in the opinion of the committee, presents to your honorable body a subject worthy the most mature deliberation. Much of the marble is transported from the quarries a very considerable distance to the prison yards, where the same is prepared for market. To accomplish this, from four to six convicts are attached to each of the carts, a heavy block of stone is fastened to it, and the convicts are compelled to conduct the load to its proper destination. This is accomplished, as the committee understood, by the physical strength of those attached to the respective carts. It is done principally by balancing the load by the counteracting strength or weight of the prisoners, which, sometimes, is extremely oppressive. After the load is deposited in the yard, the still more repulsive spectacle is exhibited

of the convicts returning to the quarries drawing their carts up a steep hill, fastened to it by harness attached to their bodies, not dissimilar to the practice of using brutes. The committee do not pretend to claim for themselves any unusual degree of sensibility, nor would they desire to present themselves in that attitude before your honorable body; but coming from various parts of the State, and believing they are acquainted with, and enjoy in common the feelings of the citizens among whom they respectively reside, they can not withhold the expression of their deep humiliation, as members of this enlightened and humane community, when they witnessed their fellow beings doomed to so ignominious, so degrading a punishment. The language of the constitution of the United States, declaring that "cruel and unusual punishments shall not be inflicted," seemed to your committee to be violated, in the letter as well as in the spirit, and we have yet to learn that there existed, at the time of the adoption of that instrument, any ordinance authorising the treatment of men equal to, if not worse, than beasts of burthen. The proceeds of the labor of the convicts at this establishment have not, thus far, realised for the State any very profitable results. This may be attributable to the nature of the principal business pursued there, and the manner in which the same has been conducted. We allude to the stone cutting and marble business. This has been carried on for the benefit of the State, the Agent making the contracts and furnishing the work. Thus presenting the State in the character of a competitor with individual enterprise.

The committee have no hesitation in expressing their conviction, that the labor of the convicts should be differently directed, and they as readily express their belief from the information acquired from creditable sources, as well as their own judgment upon the subject, that if the labor of the prisoners was disposed of to contractors in the same maner as is pursued at the prison at Auburn, Charleston and Weathersfield, instead of being a tax upon the State treasury, it would, as do the prisons referred to, furnish no inconsiderable revenue. Why the worthy Inspectors of the institution have not directed the Agent to make contracts for the labor of the prisoners, as provided for by the Revised Statutes, is certainly a matter which remains unexplained to the committee. The committee understood from the Agent, that the Inspectors considered it inexpedient or unadvisable to direct him to make such contracts

for the labor of the convicts, upon the ground that if any profit was to be realized from their labors, it ought to go into the coffers of the State, and not into the pockets of individuals. If this be so, and there is certainly no reason to doubt it, we respectfully beg leave to differ with them in such conclusion. Had we no other argument than that presented by the successful operations at Auburn, in hiring the labor of prisoners to contractors, we should deem it our duty to recommend the passage of a resolution recommendatory, or an act directory of such an employment of the convicts.

The advantages for such a disposition of their labor at Mount-Pleasant are peculiar, and your committee believe it only requires to be put in the market to realize to the State their full value.—The grounds upon which we predicate this opinion are briefly as follows: (It is to be premised, however, that the contractors ought not to be limited in their contracts to working the marble from the quarries belonging to the State, for reasons hereafter to be more fully explained.)

First. The convenience of the prison wharf, with the manual force always at command, would render the unloading of stone of all kinds in its crude state, and the reloading of the same in its finished state, a strong inducement for those desirous of carrying on the business of stone-cutting.

Second. Contractors would avoid the expense of renting a yard, as is now the practice in the city of New-York, in which to perform the labor of preparing the stone for the building.

Third. The expense of dockage of the vessels bringing the stone in their crude state, and the expense of cartage from the wharf to the stone-yard in the city, would be avoided.

Under such circumstances, why should not the labor of a capable stone-cutter upon the prison dock at Mount-Pleasant, command for his employer an amount of compensation equal to the labor of one equally capable in his business in the city of New-York? The freight from the prison to New-York would scarcely exceed the cartage from the vessel to the yard in the city, apart from the rent; and the cartage from the vessel to the building would probably be no more than if taken from the yard in the city.



The committee is aware that much complaint has been made by mechanics against the course pursued by the State, of putting the labor of convicts in competition with the honest laborer, who toils for the support of his family. That those complaints have been in some instances well founded, the committee do not doubt. We believe, however, that they proceed from the same source as the complaints from the officers of the prison, from time to time accompanying their report of unsuccessful operations, which have been an undue effort to force the manufactured material into the market, not only at an extremely reduced price for the labor bestowed upon it, but also having to contend against the prejudice of its being of very inferior quality. With the view of ascertaining as far as practicable, the truth of these imputations, the committee examined a gentleman who had been for some years employed as an instructor to the prisoners in the stone-cutting business. He informed us that he had no doubt if the labor of the prisoners, engaged in stone-cutting, was presented to the highest bidders in the market, the able bodied men would command an average price of 60 cents per day. He, however, at the same time repudiated the idea of being confined in their operations to working the marble from the State quarries on account of its inferior quality; but that with the privilege of bringing stone from such quarries as he pleased, to be manufactured in the prison yard, he assured us he would himself be willing to pay the amount above specified for 50 or 100 men upon a contract for five years. That he should have a fair proportion of first rate and middling workmen to commence with, and as fast as they were discharged by expiration of sentence, or otherwise, their places should be supplied by entire new hands.

Pursuant to his suggestion, we also addressed letters to Messrs. James Hall, and other gentlemen engaged in the business in the city of New-York, requesting information on the subject, and were favored with answers, copies of which we annex to this report without further comment upon them. In addition to which, the committee would observe whilst upon this subject, that they have had an interesting interview with Louis Dwight, Esq., secretary of the Boston Prison Discipline Society, who, in the course of conversation, confirmed us in the opinion above expressed. He informed us that the principal business carried on at the prison at Charlestown, in Massachusetts, was stone-cutting; that large quantities of the work done there, found its market in the city of New-York, and very considerable quantities had been supplied to the cities of

Albany and Troy; that the whole of these prisoners were hired out to contractors, and as an evidence of their successful operations, stated the following general results, viz:

There was on an average, during the last season, 225 prisoners, 105 of whom had the cholera very violently during the season; many of the patients lingering under the disease for several weeks. They paid all the expenses of medicine, food, clothing, and all other necessary provisions, \$13,000 of salary to officers, one new suit of clothes, and from \$3 to \$5 in cash to each convict on his discharge, the expense of transporting the prisoners from their counties, and still retained a surplus of upwards of \$4,000.

In connexion with this interesting communication, the committee would beg leave also to call the attention of the Legislature to the unprecedented prosperous results of the State Prison, at Weathersfield, Connecticut, to be found in the 7th annual report of the Prison Discipline Society, Boston, page 24 and 25, where it appears that from the labor of 192 convicts, (18 of which were females,) the State realized, beyond all expenses, the sum of \$8,713.53.

It cannot be considered obtrusive in this place, also to quote from the same report, the fact that, from the 1st of October, 1827, until the 31st March, 1832, the State had realized a revenue beyond all expenses, of \$25,853.06, and to contrast it with the fact also stated, that for the same period preceding the year 1815, the expenses of their old prison, above all earnings, were \$51,103.11.

From these data it is, we think, evident that our sister States are far in advance of our own, in relieving themselves from the burthens imposed upon the community by the depredations of offenders: and the question seriously presents itself, will not the State of New-York adopt, forthwith, some efficient measures, not only to acquire the information, but to put into practice the necessary means to secure to her citizens corresponding advantages? What is profitable at Auburn, Weathersfield and Charleston prisons, from the labor of State convicts, certainly ought not to be less so at Mount-Pleasant, with all its unequalled advantages, already secured and susceptible of being secured. At the same rate of earnings realised at Weathersfield, the number of our State convicts being about 1,500 for the last year, at its lowest estimate,



ought, if their labor was conducted with the same prudence, to realise to the State an annual revenue of nearly \$70,000. Your committee can not restrain the cheering anticipations, that your honorable body will promptly adopt some means, by which so splendid a result may, if possible, be realised. An amount like this, added to the Common School fund annually, for the mental and moral improvement of the children of the poor and honest mechanic, would soon silence the complaints of competition with convict labor, and would essentially contribute, in the course of a single generation, to render State prisons, as an abode for our own citizens, comparatively speaking, but of trifling necessity. But to return from this degression, the committee are informed that the labor of the convicts at the Weathersfield prison is also entirely hired to contractors; and that stone-cutting is the principal branch of business carried on there. The committee believe that Mr. Wiltse, the agent at Mount-Pleasant prison, is indefatigable in the discharge of his duties towards the State; that he exerts his best efforts and judgment to render the operations of the institution profitable; in a word, that he does as well as any other gentleman could do, conducting the business upon its present plan of management. But had we not already experienced the unprofitable results, theory itself would seem to dictate the inexpediency of putting under the sole direction of one man, however capable, not only the government of an establishment so extensive, but the duties of procuring materials, making the contracts for, as well as directing the labor of, upwards of 800 men. It is, in the opinion of the committee, more than one man can do, and do well. The committee believe that, to promote the interests of the State, the Agent and his assistant keepers should have nothing to attend to but to enforce the discipline of the prison; and let the contractors bring their materials and direct the manner in which the work is to be done. If gentlemen skilled in the business shall find it to their interest to use the marble from the quarries of the State, let it be sold to them at a reasonable price; but let us no longer be told of the necessity of throwing away the labor of the convicts upon marble from our own quarries, when we can scarcely induce purchasers to take it from us at the expense of quarrying.

In connection with these suggestions the committee submit the answers of the Agent, Mr. Wiltse, to various questions propounded by us; giving his views upon the several subjects therein embraced.

The questions and answers are hereto annexed, marked A; which, together with the report of the Inspectors, furnish all the information which the committee are enabled to present to your honorable body, upon this branch of the duties assigned to them.

The committee would also beg leave to call the attention of your honorable body to the provision of the Revised Statutes, (vol. 2, page 761,) as to the appointment of keepers and assistant keepers. By the law the Agent at Mount-Pleasant has the sole power of appointing those officers, whilst that power is lodged in the hands of the Inspectors at Auburn. The committee can not comprehend any good reason for this distinction between the two institutions; and, upon principle, they consider the Agent an unnecessary, as well as an indiscreet depository of the appointing power. The committee are fully persuaded, from the nature of the duties of those officers, that they ought to be entirely independent of each other.

The only remaining branch of our duties is anxiously to solicit the attention of your honorable body to the deplorable condition of our female State convicts. If there be upon the escutcheon of our State pride and greatness a stain of reproach deeper than all the rest, it is our too great neglect of this class of miserable beings. The subject has been brought before the Legislature from time to time, and as often deferred or defeated; whilst a very considerable number of our fellow beings were actually in a condition, which to witness could not but make the heart of the most indifferent towards his species to bleed; whilst, if a citizen of New-York, his soul would sink beneath the load of shame, at the degraded exhibition. The bill providing for the erection of a separate prison, for female convicts, has been already introduced into the Senate, and the able report of the standing committee upon State prisons, of that body, for this year, as well as the last, renders it unnecessary that the committee should recapitulate what is therein set forth. It will be perceived, by the report of the Inspectors of the Auburn prison, that they have, during the last season, employed a matron to superintend that class of the convicts confined there, with very gratifying success. Miss Foot, the lady who was engaged in this employment, gave the committee the most pleasing assurances of the improvement of this unfortunate class of prisoners, since this new arrangement, and expresses her strong belief that, by enforcing a proper discipline among them, with the aid of moral instruction, most, if not all of them, might be

brought to a proper sense of their situation, and their vicious and abominable propensities in a great measure corrected, if not entirely eradicated. The order and discipline which had been introduced in the short period of Miss Foot's superintendence, when contrasted with the loathsome spectacle exhibited by those at Bellevue, was sufficient at once to satisfy the most careless observer of the necessity of making arrangements forthwith to put them under the charge of competent matrons; and the committee would beg leave most earnestly to solicit the early action of the Legislature, in providing a suitable building for their reception, where the prison discipline, so far at least as solitary confinement and the prohibition of conversation extend, may be rigidly enforced. The committee deem it unnecessary for them to express any opinion as to the location of such an establishment. The expense of erecting one, sufficiently large to answer all supposeable exigencies, would be but trifling, compared with the immense blessings which we believe would assuredly follow. A healthy location, in the neighborhood of some benevolent village or city, whose inhabitants would feel an interest in the mental and moral improvement of these degraded beings, is, in our opinion, the principal object, connected with which, if the location was such as to furnish profitable employment for the prisoners, the pecuniary interests of the State would be advanced. And in dismissing this branch of the subject, the committee most earnestly hope that New-York will no longer suffer herself to be so justly rebuked by her sister States for her delinquency, in this particular.

All of which is respectfully submitted.

I. R. VAN DUZER,  
WM. SEYMOUR,  
R. D. DODGE,

*Committee.*

( A. )

**Questions to, and Answers of, Robt. Wiltse, Esq.,  
Agent, &c., referred to in the preceding report.**

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**QUESTIONS.**

1st. What number of men has been employed in the various shops respectively, (exclusive of the stone-cutting,) on an average, since you have been Agent?

2d. What has been the expense of stock furnished to each shop?

3d. What has been the amount of receipts for work sold from the above shops?

N. B. Please note the average of receipts for each man thus employed.

Will Mr. Carmichael please give us an estimate of what the building at the prison during the past year would have cost upon contract, in which he will please state the dimensions of the various buildings put up? In this, Mr. Lent's opinion is also requested.

Please furnish an estimate of the average daily earnings of the convicts engaged in furnishing the stone under the contract with the French church.

Mr. Wiltse will please furnish the same under the contracts with Stevens.

In the above statements, please to give as succinct a statement of the particulars upon which the estimates are founded, as may be practicable.

**ANSWERS.**

There was charged to individuals for work done and delivered, in the blacksmith and lock shop, during the months of October and November, \$2,123.91. Deduct for cost of materials used in said work, \$776.39, leaving for the earnings of the men, averaging 45 during the two months, \$1,347.52, which is 57c. per day per man for their labor.

During the same time there was charged to Gary & Cogdell, for work done and delivered, in the shoe shop, \$750.95; deduct shoe thread, &c. \$13.50, leaving for the earnings of the men, averaging 48 during the two months, \$737.45, which is 30c. per day per man for their labor. In this shop the men earn considerably more in the summer season.

These shops are the only ones where mechanical branches are carried on, except the stone-cutters' shops.

About the middle of November, I commenced the coopering business in its various branches, and have now about 50 men thus employed; but as they are all new hands, and have yet to learn the trade, I cannot at this time make a correct estimate as to their proba-

ble earnings; they are to work by the piece, all the stuff to be found by the contractor. In the course of the winter it is my intention to increase the number at this business to 100 men. At the prices we are to have, I have no doubt they will earn from 35 to 40c. per day each.

During the past year we have had on an average of 156 men in pounding rubble stone, quarrying and cutting rail-road blocks, loading the same on board of vessels during the year, (deducting the time stopped in consequence of the cholera,) leaves 248 working days for 156, is 38,688 days' work, for which I have received \$14,500, equal to 39c. per day per man. Many of those thus employed, were the infirm, lame, &c. of the prison.

It is proper here to remark, that the number of shoe makers, blacksmiths and locksmiths, were not the same during the whole of the preceding year. The calculation with them only embraces the two months of October and November. They will, I think, improve, so as to make their average earnings 35 to 40c. per day, another year.

The average employment of the convicts for the year past, has been as follows:

DEPARTMENT.	On work for sale.	On work for State.	TOTAL.
Blacksmith and lock shop, .....	45	29	74
Shoe shop, .....	48	12	60
Manufacturing shop, .....	6	68	74
Rail-road blocks and rubble stone, ..	156	.....	156
On prison building, .....	.....	46	46
Quarrying and carting, for do.....	.....	20	20
Stone cutters, .....	187	.....	187
Barrow-men and waiters, .....	23	.....	23
Kitchen and hall, .....	.....	29	29
Hospital, sick, &c. ....	.....	23	23
In the 4 quarries, .....	140	... ..	140
	605 men.	227	832 men

The large amount of orders for cut marble contracted by my predecessor, and left unfinished, (which I have since mostly completed) together with the want of shop room, and the length of time necessary to instruct so great a number of men in the various mechanical branches, has prevented my getting as many thus employed as I would have done under different circumstances.

I was appointed agent, 1st November, 1830; at that time we had 770 prisoners, and not over 25 or 30 at work, for sale, at mechanical branches, other than stone-cutters. In one year from that time, we received an increase of 232 actual gain, making our number, 1st November, 1831, 1,002 men. This enormous increase was occasioned, in part, by the great addition of our prison district, which was done to relieve Auburn prison, as they had more

than they could *profitably* employ. And in two instances, when they found themselves in a situation to give *profitable* employment to more men, they have been supplied from this prison, to the number, in all, of 120, all of which has been done at the expense of this prison, to favor Auburn.

I merely mention this circumstance among others in order to show the disadvantages of this system. Under the most favorable circumstances much time is necessary to get all things so organized and arranged as to give profitable employment to such a large number of men. I am decidedly of opinion, that a proportion of these men can always be profitably employed at the stone-cutting business, but not to the same extent as was originally intended. It has been my object, to have such a number of the various mechanical branches in operation, to enable me at all times, to put such prisoners as have trades, at their respective trades, instead of learning them a new one; and at the same time, so to equalize the several branches as not have any overdone, or make a monopoly to the injury of *honest mechanics*.

The stone-cutting business is calculated to do citizen mechanics less injury than any other branch of mechanical business. The present average earnings of the stone-cutters at work on the contract for the French church in New-York, may be put down at 90 cents per day per man. This of course includes the quarrying and carting the stone from quarries to shop, which will reduce the actual earnings of those engaged on this work, to about 55 cents per day per man. At the present time, sales to any extent can be made for good stone, so as to insure the above prices at least. The only objection that can be raised against this mode of employing the prisoners, is the uncertainty of always procuring a good supply of marble from the quarries. In consequence of this uncertainty, and the heavy expenses attending the opening of quarries that frequently prove useless, I am now making arrangements to employ, at least, a *part* of the men at the various mechanical branches, so soon as shops suitable for such purposes can be erected, and the men instructed in their several branches. By having a less number of men engaged in the stone-cutting and quarrying business, we shall not be placed in a situation where it will be necessary to *force* our articles in the market, made from poor materials, but select such only for sale as will command a fair price.

The estimates of cost of our buildings, made by Messrs. Carmichael and Lent, as requested, are as follows: Additional shops erected during the past year, 160 feet in length, and 40 feet wide, 2 stories high, would have cost the State to build them, by citizens' labor, \$10,450. We have done considerable other work the last year about the prison, besides adding to the general stock of tools, fixtures, &c., &c.

The actual cost of building the prison shops, &c. and including all the expenses of opening quarries, excavating for foundation, &c. &c. up to Jan. 1, 1832, is \$200,105.66, including the support of its prisoners from the commencement. What all this labor would have cost to employ citizen labor, I cannot form a correct

idea. But from the estimates of mechanics and from the cost of the Auburn prison, (which was built in part by citizen labor,) I should think it would not be less than 250,000 dollars.

It must also be borne in mind, that the old prison in New-York was an annual expense to the State of about 20,000 dollars, for several years previous to its abandonment.

The Auburn prison, I believe, cost the State in all about \$450,000

This cost ..... \$200,000

Deduct what the old New-York prison sold  
for, ..... 100,000

And you have the actual cost of this in the place of the  
old one, for one-fourth what the Auburn cost, ..... \$100,000



# Contracts made by Robert Wiltse, Agent.

NAMES OF CONTRACTORS.	Residence.	Date of contract.	Amount of contract.	Rec'd on acc't of contract.	Due when finished.
Carroll & Wemple, .....	Albany, .....	Jan. 14, 1831,	\$1,800 00	\$500 00	Contractors failed and work not finished.
Thomas E. Davis, .....	New-York, ..	Feb. 1, 1831,	15,525 }	15,258 51	Finished.
do .....	do ..	July, ..	1,300 }		
Seth Geer, .....	do ..	Feb. ..	1,300 00	.....	\$1,300. Done in part.
James N. Wells & Thomas Woodruff, .....	do ..	May 5, ..	8,431 00	.....	\$8,431. Done in part.
Sailor's Snig Harbor, per Capt. John Whetten, ... ..	Staten-Island,	Sept. 3, ..	2,000 00	1,600 00	Finished.
Camden and Amboy rail-road co. per R. L. Stevens, .....	New-York, ..	January, 1832,	10,640 00	Paid, ....	Finished.
James Russel, .....	do ..	July, 1831,	380 00	.....	Finished.
Francis Olmsted, .....	do ..	March, 1832,	1,200 00	.....	Finished.
Nicholas Haight, .....	Jersey city, ..	do ..	544 30	.....	Done in part.
Thomas R. Smith for French church, .....	New-York, ..	August, ..	14,690 00	.....	Just commenced.
Camden and Amboy rail-road co. per R. L. Stevens, .....	do ..	August, ..	11,406 00	5,960 00	\$5,440.

The above are all the written contracts entered into by the present agent.  
 ROB. WILTSE, Agent.

December 1, 1832.



*Continuation of work done and part done, per order, and memorandums of agreements.*

Julias A. Carrington's order for marble, July 15, am't..	\$272 00
Andrew Brady. do Nov. 1, " ..	270 00
Sailors' Snug Harbor, do .....	1,120 00
John Groshon, several orders for locks, &c. ....	1,200 00
Seth Geer, do do .....	1,500 00
J. Williamson, two orders do .....	462 00
W. F. Fotterall, orders do .....	377 00
do do for marble, .....	376 00
Academy Park, coping, &c. ....	1,422 76
Capitol Park, do .....	1,069 77
Daniel Kinny, orders for locks, ....	433 50

In addition to the above, we are receiving numerous small orders for work of all kinds, which is generally paid for on delivery, and appears more fully on the order books of the different departments.

ROB. WILTSE, *Agent.*

December 1, 1832.

( B. )

**Description of the Internal Police of the State-Prison at Auburn.**

In order to give an intelligible description of the internal police of this prison, it is necessary to begin with a remark or two respecting the construction of the shops, as it regards means and facilities for enforcing the great fundamental rule of our system of discipline, viz: *non-intercourse among the convicts.*

It was found that this rule, upon which all the utility and efficiency of the system was seen to depend, could not be enforced, without either greatly multiplying the number of assistant keepers, or devising some better means than shops of the common construction afford, for facilitating inspection. This led to the adoption of what are termed *inspection avenues*. These are narrow passages along the back part of the shops, and separated from them by only a thin board partition, through which are cut, at short distances, along the whole length of the shops, numerous small apertures, for the purpose of looking through from the avenues upon the convicts in the shops. In these avenues, (so constructed as to admit but little light) are stationed several officers, who are constantly passing and repassing from one extremity of the prison to the other, with a full view of the shops, and at the same time unseen and unheard by any of the convicts or keepers in the shops. This device has been found to operate as a most effectual guard against

forbidden intercourse among the convicts. As these keepers are secretly passing from shop to shop, through these darkened avenues, at all hours of the day, no convict knows, at any time, but that the invisible eye of a keeper is fastened directly on him. Thus the apertures in the partition between the avenue and the shop, are like so many eyes constantly fixed on the convicts; and the effect is, to make them feel, at all times, that any violation of the rules of the institution, whether under the eye of their shop-keeper or not, must be at the risk of incurring a severe penalty. Other uses of the avenue will be noticed, in describing the duties of the officers. It may, however, be remarked here, that it answers an important purpose in passing visitors through the prison without going into the shops, which would not only produce confusion, by diverting the attention of the convicts, but in many cases, present strong temptations to them to violate the rules, and thus expose them to punishment.

#### *Duties of the Deputy Keeper.*

This officer has the general and constant superintendence of all but the pecuniary affairs of the prison, especially its police and discipline; and is responsible to the agent and keeper, that his orders, and all the internal rules and regulations, be promptly and strictly observed. He is constantly moving about in the interior of the prison, visiting irregularly, and without notice, the hospital, kitchen, shops, yards, and all departments of the prison. He has the immediate direction and control of all the assistant keepers and guard; and by frequently passing through the inspection avenues, in the rear of the shops, he exercises a *secret supervision*, not only over the convicts, but also over all the assistant keepers, to see that they are vigilant and attentive to their duty, and to detect any abuse of their power in punishing the convicts. He also frequently visits the lodging departments and the hospital, during the evening, and occasionally in the night, to see that all is right, and that the assistant keepers and guards, on night duty, are vigilant and faithful.

#### *Duties of Assistant Keepers.*

The assistant keepers have the immediate charge of the convicts, in the various shops and yards, while at their labor. Their duties will be more fully developed in describing the police regulations in detail: but it is proper to make some general remarks under this head.

These officers, when on duty, are required to govern themselves in strict conformity to the rules of the institution; to maintain a uniform gravity and dignity of deportment, calculated to inspire the convicts with respect and confidence; and to avoid every thing like levity, passion or petulance. And at all times, when within the walls of the prison, they are to refrain from singing, whistling, scuffling, loud laughing, and provoking witticisms, or sarcasms on each other; and in all their intercourse, they are to

treat each other with that mutual respect and kindness which become gentlemen and friends, and cultivate an ardent zeal to promote the best interests of the institution. No spirituous liquors, strong beer or ale, are ever to be used by any officer or guard, in or about the prison.

Assistant keepers are also to refrain from all conversation with each other, or with the contractors, when on duty, except such as may be absolutely necessary in the discharge of such duty.

They are forbidden to say any thing in respect to the police of the prison, in the presence of convicts, unless it be in the way of directing them in their duty, or admonishing them for delinquencies; nor are they to hold common-place conversation with convicts, or allow them to speak to them on any subject except their necessary business.

The assistant keepers are allowed and required to punish convicts, for violations of duty, by stripes, which are to be inflicted with a raw-hide whip, and applied to the back, in such a manner as not to expose the head, face, eyes, or in any way to put the convicts health or limbs in danger. The use of a stick, or cane, or any other weapon, or of the fist or feet, is strictly forbidden, except in cases of self-defence.

As this is a high and delicate trust, these officers are often admonished to exercise it with humanity and discretion, without passion, and in such a temper of mind as will convince the offender that the chastisement is given solely for his good, and as an example to others, and that it is a most painful duty for the officer to perform.

In aggravated cases, a *cat*, made of several strans of small twine, is applied to the bare back, under the direction of the principal keeper, or deputy.

In every case where an assistant keeper has occasion to punish a convict, he is required, in a reasonable time thereafter, to make a formal report of it, in writing, to the keeper or deputy, stating the convict's name, the nature of the offence, and the number of stripes inflicted. This regulation, in connexion with the constant secret supervision of the shops from the avenue, through which the keeper, deputy, or some assistant keeper, as well as visitors is passing, unseen and unheard, at all hours of the day, with a full view of the shops, affords the best check against any abuse of the power of punishment, that the circumstances of the case will admit, and it is believed to be effectual. No assistant keeper, who values his reputation, or wishes to retain his place, will be likely to run such a risk, as he would in these circumstances, of losing both, by an abuse of this power; or if he should be disposed to venture it, it would be impossible to escape detection any length of time; and when detected, the agent and keeper would deem it his duty immediately to suspend the offending officer, and lay the case before the Board of Inspectors.

#### *Duties of the Guard.*

To four of the guard is assigned the duty of sentinels upon the walls. Two are constantly on duty here during the day, one upon

the north and the other upon the south side of the prison, and are relieved by the other two every hour.

One is stationed at the north gate, the passage for teams; one at the front or centre gate; and one in the keepers' hall, to tend the doors leading thence into the interior of the prison.

One has the care of the north wing and the hospital during the day, and relieves in the kitchen.

Four are on the night patrol in the shops and yards, two on duty at a time, every other night, alternately. They also perform some other duty as reliefs, in the day time.

Two do night duty in the south wing every night, taking turns in watching and sleeping.

One is on duty every night in the north wing, from ten o'clock till four, as a relief to the assistant keepers.

The others are either employed in the interior, conducting visitors through the prison, relieving or going on errands.

All, excepting those who perform night duty elsewhere, are required to take their turns, (two at a time, relieving each other,) in doing night duty in the keepers' hall.

#### *Duties of Convicts.*

The duty of convicts in this prison is, *to obey orders, and labor diligently in silence.* They are not to speak to each other, on any pretence, except by special direction of a keeper, nor communicate by signs, except so far as is absolutely necessary about their work. They may not sing, whistle, dance, run, jump, or do any thing which will have the *least tendency* to disturb or alarm the prison. Their every movement and whole demeanor are to be in strict accordance with the most perfect order, and the situation in which they are placed. They are not to leave their places without permission from a proper officer, nor to look off from their work to see spectators, or gaze at them when unemployed. They are never to speak to persons who do not belong to the prison, nor receive from them any letter, paper, tobacco, or other article whatever. They are not even to speak to their officers on ordinary topics; and when it becomes necessary to address them in relation to their business or their wants, they are to approach them with deference, and make their business known in few words, and in a respectful manner.

No convict is wilfully or negligently to injure his work, tools, wearing apparel or bedding; nor is he to make the articles carelessly or badly on which he is at work, when he has ability to make them well.

For the wilful or repeated neglect or violation of these or other rules, chastisement is inflicted in the manner before mentioned.

It is easy to perceive that the most unceasing vigilance is requisite, on the part of the officers, to enforce these regulations, and that they must occasion a vast variety of particular rules and practices which cannot easily be described.

### *Shop Regulations.*

Besides the officers who patrol the avenues, there must be at least one assistant keeper to each mechanic department, and, if practicable, one who is sufficiently acquainted with the business pursued in it, to instruct the new convicts, and judge whether the old make good work. He is allowed, in some instances, to place a faithful and experienced convict by the side of a raw hand, if he can keep them under his eye, to instruct him in the business, which is done chiefly by *showing*, without speaking.

Except in a few instances where the contractors employ citizen mechanics as foremen, to oversee their business, the assistant keeper in each mechanic department examines and directs the management of all raw materials, and prevents their waste; carefully inspects all manufactured articles, and in all cases sends them to the proper places of deposit, with a bill thereof for the contractors, every day. He also keeps an account himself of all the articles manufactured, with the prices, and enters them in a book, to be transferred to the books of the clerk. He also makes weekly and monthly returns, to the clerk, of all the work done in his shop. Though he has the superintendence of all the work in the shop, he is clothed with no more power than the other assistant-keepers, not mechanics, who assist in governing the shops.

He keeps on his desk a list of all the convicts in his charge; puts down, opposite the name of each, the kind and amount of work done by him, and requires him to do all he can reasonably perform, according to his ability, without stint-work. He soon discovers what a convict ought to perform, and compels him to do it; and when in health, he is not suffered to be idle a single moment, or have any particular favor or allowance for any thing that might be called over-work.

He also keeps another list of his men's names, with the number of each one's cell opposite, in order that he may know, at the time of locking up, whether any one be missing, and if so, who it is.

In all the shops the convicts are arranged, as far as possible, in such a way as not to face each other, and to have their work entirely separate.

There are convicts selected in each shop for waiters or tenders, to distribute materials, take out ware, keep tools in order, remove rubbish, sweep the shops, hand drink, &c. under the direction and observation of the assistant keeper, and chiefly by signs, so that the laborers need not leave their work. In this way, a shop, with the business of a hundred men, is so managed, that hours together will frequently pass without a word being spoken.

The shops are often scrubbed, and occasionally white-washed. All the convicts are shaved once a week by convict barbers, and their hair kept short. They are also required to wash their face and hands night and morning, their feet often, and, in the warm season, to bathe frequently in one of the large reservoirs of water in the yard.

There are, at convenient places and suitable distances along the side of the shops, a sufficient number of small necessities, built upon the outside of the shop, but entered from within, and furnished with suitable tubs, which are taken by a convict selected for that business, and emptied into a vault, and cleansed, so often as not to become in the least offensive in the shop.

Only one convict is allowed to enter the necessary at a time; and he must take with him a certain stick, which at other times hangs in a conspicuous place in the shop, that it may be known by looking there, whether any one is in the necessary. There is the same regulation in the yards where men are employed, and also for the kitchen and wash-room.

### *Receiving new Convicts.*

When a new convict arrives at this prison, he generally appears serious, and evinces pretty strong apprehensions in regard to his reception and treatment. After having his manacles removed, and submitting in silence to a thorough, and of course pretty severe, ceremony of ablution, performed by convicts under the direction of the keeper, he is clad in a clean prison dress, and brought to the clerk's office, where the description of his person, former employment, age, &c. is taken, and entered by the clerk in the prison register.

The Agent and keeper then, after ascertaining, as nearly as he can, by the sheriff who brings him, and by questioning the convict himself, his habits of life, temper, prevailing passions, &c. addresses to him a few remarks, calculated to impress his mind with a sense of his guilt and degradation, the justness of his punishment, and the importance of improving the period of his seclusion from the world, by serious reflection upon the folly of his past conduct, and by deep repentance and resolutions of future amendment.

He is then instructed in a few plain, general rules for the government of his conduct, relating to obedience, silence and industry, to which he is by this time prepared to listen with fixed attention. He is told that the most strict and humble obedience will be required, which will be no less his interest than his duty; that we possess, and readily apply, the most ample means of coercion, to which, however, it is always painful to resort, but which, when necessary, are promptly put in requisition; that so long as he behaves well, he will be exposed to as little bodily suffering as the nature of the case will allow; and that there are many convicts who go through with a long term of imprisonment, without receiving a blow or a harsh word, and which will surely be his case, if he complies with the rules of the prison.

If the convict have a trade that is pursued in the prison, (which is rarely the case,) he is put to that business; otherwise the keeper, judging from the aptitude, capacity, &c. of the convict, with usually some regard to his wishes, selects such trade for him to learn as he deems most suitable. He is then taken to the shop, and put in the custody of that assistant keeper who superintends the branch of business he is to learn; is then further instructed by his



keeper in the minutia of those shop, table, marching and cell rules and regulations which are required to be observed; and then commences his labor, and the course of his apprenticeship.

*Opening the prison in the morning, and the proceedings of the day.*

The hours of labor vary according to the season. In long days, they commence at half past five in the morning, and close at six in the evening; and in short days, the hours are so fixed as to embrace all the day light.

Half an hour before opening the prison, the guard on night duty in the keepers' hall rings a bell hung over the front gate, for the officers to assemble; and in about fifteen minutes after, the officer on night duty in each of the wings rings a small bell, as a signal for the convicts to rise, dress, and prepare to come out. At the end of the half hour, at another signal given at the front gate, the deputy keeper looks at the roster, or duty-board, to see whether all the pins standing opposite the several officers' names are removed from "*absent*" to "*present*," which they are required to do as they come in, to signify that they are present; when the assistant keepers, having previously taken their keys from the key-room, immediately proceed to their respective galleries, and unlock the convicts, who form in a line and march out with their night-tubs, water-cans and mush-kids; the two last of which they leave in the kitchen, through which they pass, and then proceed through the yard, empty their tubs in the vault, rinse them at the pumps, partly fill them with water to prevent them from falling to pieces and from becoming offensive, and place them in rows in the yard, and then enter their shops and commence the labor of the day.

*Breakfast.*

At from seven to eight in the morning, according to the season, a large bell, hung in the centre of the interior yard, is rung as a signal for breakfast; when the convicts form again in a line in the shops, and are marched by their respective keepers through the yard, and enter the dining hall, or mess room, at two different doors, seat themselves at the tables as fast as they come in, and, at a given signal, after all are seated, commence their meals, which have previously been divided and distributed equally upon the tables by the cook.

But as some eat more and some less, according to the state of their health and the nature of their employment, convict waiters, furnished with large vessels, pass along constantly between the tables, taking food from those who raise their right hand, in token that they have it to spare, and giving to those who raise their left hand, to signify they want more.

This regulation will readily be seen to be an important one. The difference in the appetites of the convicts is very great. The blacksmiths or coopers, for instance, require in general, double the quantity of food that the shoemakers or tailors do. Were there only an equal distribution of the food, instead of this accommodation of

the quantity to their various appetites, some of them would leave much to be wasted, while others would suffer for the want of it—which must be the case in those prisons where the convicts are required to take their meals in the cells.

The tables are narrow, and the convicts, sitting on one side only, are placed face to back, and never face to face, so as to avoid changing looks or signs. While the convicts are in the mess-room, there is always a sufficient number of officers present to oversee the whole, and in positions the most advantageous for detecting any breach of the rules. Their places at the tables are so arranged, that if any one is absent, by accident or design, he is instantly missed.

When the steward perceives the convicts have done eating, or have had ample time for it, he rings the bell, when one company rises after another, in perfect order, and all march back to the shops; those going out first who came in last. All this occupies from twenty to thirty minutes.

### *Hospital Reports.*

Either before or immediately after breakfast is the time for sick convicts to report themselves for the hospital. Any one has a right to report himself sick, and his keeper is required to send him as often as he so reports himself, unless he receives notice from the physician that the man is an impostor, and goes to the hospital for no good purpose. Each assistant keeper puts the names of the sick in his shop on a slip of paper, which he sends to the keepers' hall; and when the physician comes, (at nine o'clock in the morning,) an officer, whose duty it is, assembles all the sick, and conducts them together to the hospital, where they are examined by the physician. Such as are found unable to labor are retained, and the others sent back to their shops, after the necessary prescriptions to such as need medicine, with written directions to their keepers for full or light labor, as their cases may require.

The physician is to repeat his visits through the day, whenever the condition of the sick requires it; and when sent for, is to come immediately to the prison, to the exclusion of all other professional business or engagements.

### *Clothes Time.*

From ten o'clock till half past ten, in the morning, is called "clothes time." At this hour, each week day, about one-sixth part of the convicts are sent, in turn, to the clothes room, where a keeper attends and gives out clean and whole clothes, shoes, &c. as they need, except shirts, which are placed in their cells every Saturday afternoon, that they may change on Sunday morning, and leave their dirty ones to be gathered up on Monday.

### *Dinner.*

The convicts always dine at 12 o'clock, and the proceedings are precisely as at breakfast, except that a blessing is implored at dinner by the chaplain, as soon as they are all seated at the tables.



### *Closing the Prison at night.*

Just before the time arrives for quitting labor, the fires are secured; the convicts wash their faces and hands, and then, at the ringing of the yard bell, form in a line in their proper places, according to the numbers of their cells, march out of the shops to their rows of tubs, and at command take them up, step forward and empty the water into the drain, advance to the pumps, take a little fresh water again into their tubs, hang the bale on their left arm, and proceed in reversed order from that of coming out in the morning, (those going in first who came out last,) to the kitchen, where their mush and molasses in a kid, and water to drink in a can, have been placed together in rows by the cooks, and, without breaking their step, stoop and take up their supper and drink in their right hand, and march to their respective galleries, enter their own cells as they arrive at their numbers, and pull their doors partly to. Each gallery is occupied by one company, which is marched and locked up by one assistant keeper, with two keys differing from each other, and from all the rest.

The keys, having been taken from the key room by the guard on duty in the keepers' hall, and deposited in a convenient place in the kitchen, are taken by the assistant keepers as they pass through with their companies, who, as soon as they arrive at their galleries, commence locking their cells at No. 1, and as they enter the keys, the convicts suddenly shut the doors quite to, which shows that they are in their cells, without the delay of examining.

When the assistant keeper has thus gone through his gallery, he returns directly back to No. 1, trying all the locks as he goes, to guard against mistakes. The officers then all repair to the keepers' hall; and, if the convicts are all in their cells, return the keys to the key room. But if not, which they ascertain by the hospital report, and the list of the convicts of each gallery kept by the assistant keepers, their keys are retained till the convict is found; but this rarely happens.

When the keys are found to be all returned to the key room, and the pins in the duty-roster are all in their proper places, the officer whose duty it is to see to this, calls "*all right*" to the guard at the front gate, who immediately rings the bell, when all the officers may leave the prison, except seven, whose duties may properly be described under the head of *night duty*.

### *Evening Devotions.*

Soon after the officers retire the chaplain enters the wing, and taking a position favorable to be heard, in the area in front of the cells, reads select portions of scripture, and addresses the throne of grace in solemn prayer.

### *Night Duty.*

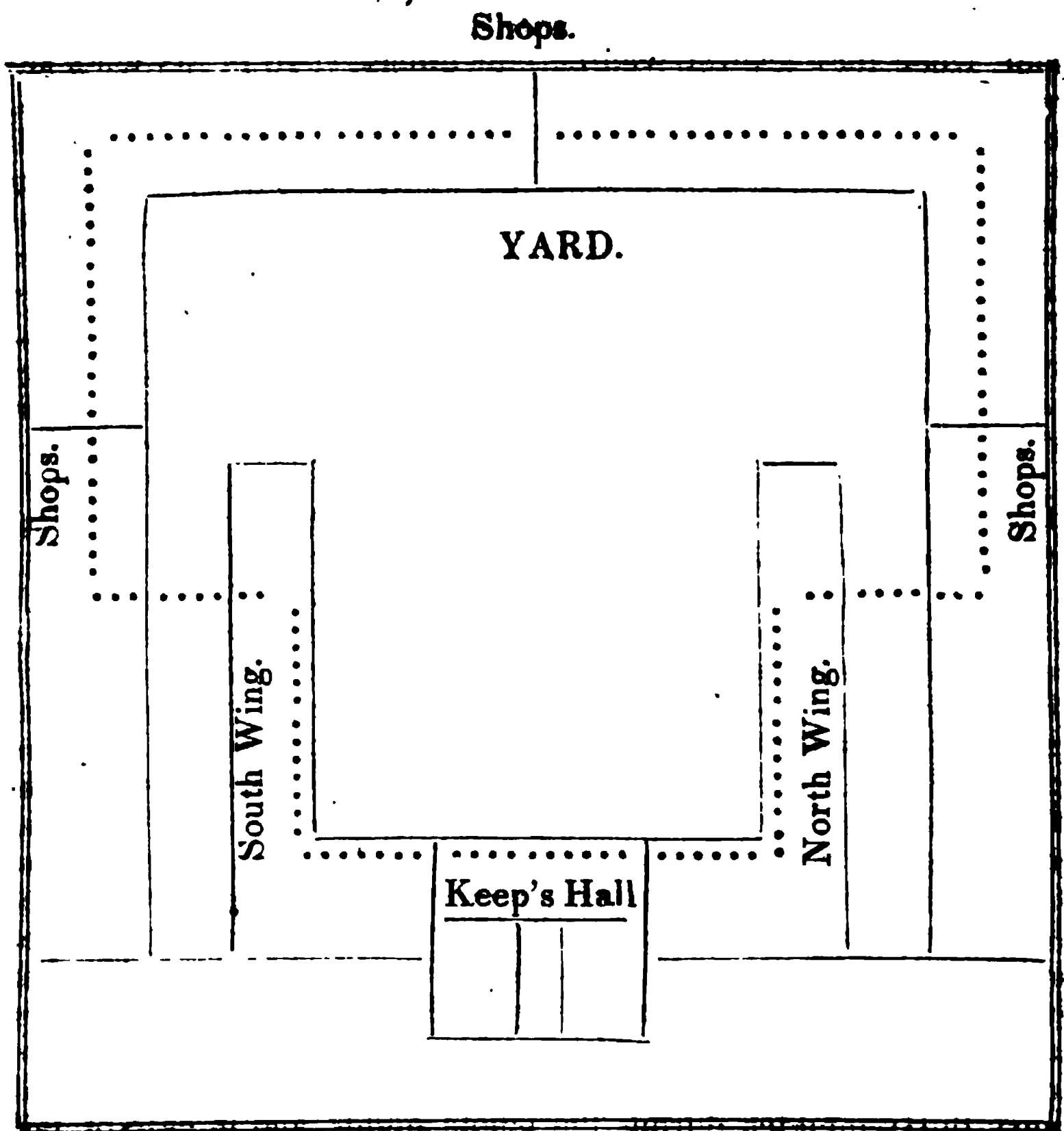
After the closing of the prison, two of the officers remain in the north wing, to watch the convicts in their cells, and one in the

keepers' hall, to tend the front gate and inner doors, for about one hour, when they are relieved by four others, (two in the wing and two in the hall,) who take turns in watching and sleeping during the night. At the time of closing the prison also, four other officers, who are required to do but little other duty, enter the prison, two to watch and sleep by turns, during the night, in the south wing, and the other two to patrol the shops and yards during the night, to see that every thing is secure, particularly the fires. There are four to whom this latter duty is assigned, who take turns, two one night, and the other two the next, and so on. The two on duty, after going the rounds twice, also take turns in patrolling and sleeping.

Thus it will be seen that there are four officers on active duty at all times of the night; one in each of the wings, one in the keepers' hall, and one in the yard.

These officers are required to maintain the most wakeful vigilance, and to be constantly moving about in their respective departments; to insure which, the following expedient is adopted. Soon after they enter upon their night duty, the man stationed in the keepers' hall lodges a small *ball* in a box, prepared for the purpose, in the door leading from this hall into the south wing; the man in the south wing then takes the ball, and lodges it in a like box placed in a window on the south side of this wing; thence it is taken by the patrol guard, and carried round through the shops or yards quite to the opposite side of the prison, and lodged in a box on the north side of the north wing; whence it is taken by the man on duty in that wing, and returned to the keepers' hall, ready to be started again on the same round by the man on duty there. This ball must come round thus to the keepers' hall every thirty minutes during the whole night; and in case of failure, after ten minutes' grace, the man stationed here reports it to the principal keeper, or, in his absence, the deputy, who immediately traces out the delinquent, and, if he have no valid excuse, discharges him.

The diagram on the following page will perhaps make it plainer. The dotted line represents the track of the ball.



The convicts are required, at an early hour, by the ringing of the bell, to take off their clothes, and go to bed upon their canvass hammocks, with blankets enough for their comfort; but when in health are not permitted to lie down before that time, nor to get up again, except from necessity, till the bell rings in the morning. The area round the cells is well warmed by stoves when necessary, and (as well as the keepers' hall and the Agent's dwelling,) lighted by lamps through the night. After the signal for going to bed, all the locks are again tried by the officers on duty.

At four o'clock in the morning, the principal cook is let out of his cell, to build fires in the kitchen, and commence preparation for breakfast.

The several assistant keepers, who have no companies to lock and unlock, and all the guard who are not on other duty, place themselves, at the time of opening and closing the prison, in the angles and other places about the wings, to aid in preventing or detecting any talk or other irregularity among the convicts, as they march along the galleries, the officers who lock and unlock not being able, at that time, to keep their eyes upon them all.

The key of the key-room is always, night and day, in the hands of some one on duty in the keeper's hall.

*Sunday Regulations.*

On Sunday morning, the officers are all present, and the prison is opened at the same time and in the same manner, as on other days; and the convicts, after emptying and rinsing their night tubs, march back to their cells, and their doors are latched merely, the officers remaining on the galleries, till the bell rings again, when the convicts are marched to the mess-room for breakfast; and as they return to their cells, they take their cans of fresh drinking water, which have been filled by the cooks.

The convicts are then locked up in the usual manner, the keys returned to the key-room, and the officers disperse, except three assistant keepers, who (having been relieved by others an hour for breakfast) watch the cells and hospital through the day, two in the north wing and one in the south.

One guard also remains all day in the keepers' hall, to tend the front gate and inner doors, (he also having been relieved for breakfast,) but neither he, nor the assistant keepers on duty, are relieved to eat again until night.

*Sunday School.*—The Sunday school embraces about two hundred of the younger and more ignorant portion of the convicts. These remain in their seats at the breakfast table, on Sunday morning, until the rest of the convicts are marched out to their cells, and are taken by two assistant keepers to the chapel, where they are under the instruction, till ten o'clock, of about thirty-five of the students of the theological seminary, who generously volunteer their services. The two assistant keepers are constantly present while the school continues, to keep order, and enforce the prison rules. The resident chaplain has the general superintendence of the school, and it is also frequently visited by the Agent and deputy keeper.

The teachers hold no conversation with the convicts, except what relates strictly to their studies, avoid all remarks in their hearing upon any other subject whatever, and discountenance in them any thing that savors of levity or improper familiarity.

The assistant keepers are required to enforce these and all other salutary school regulations, and to report to the Agent any thing which may justly be considered a violation of them.

*Divine service.*—At precisely ten o'clock the officers are all assembled again, and the convicts in the cells are unlocked in the usual way, and marched to the chapel, when a sermon is delivered and the usual divine service performed by the chaplain.

The chapel is furnished with narrow seats with backs, so that the convicts sit comfortably, facing the minister, without a chance of looking in each other's faces. Small platforms are erected at the sides and ends of the chapel, upon which the assistant keepers are seated, so elevated as to have a full view of every convict.

During the chapel service, the guard, (except the sentinels upon the walls,) remain in the keepers' hall, and one assistant keeper in the kitchen with the cooks, to prepare and divide the rations of meat, bread and vegetables, which are to supply them until the next morning.

At the close of this service, after the chaplain has retired, the company which came in last, rise at the word of their keeper, and march out, and the others follow, in their order, in the same manner. Passing through where their kids of rations and cans of water are placed in rows, they take them to their cells, are locked up, and the assistant keepers and guard, (except those on duty,) disperse for the remainder of the day.

In excessively warm weather, however, they are sometimes required to assemble and take the convicts out for airing just at night.

*Sunday afternoon.*—Soon after the convicts retire from the chapel, the chaplain commences visiting from cell to cell, and spends the remainder of the day in giving them, individually, at their cell doors, moral and religious advice and instruction, with the happiest effects.

### *Discharge of Convicts.*

When the time arrives for the convict's discharge, he is decently clad, and furnished with money to supply his wants till he can find employment. An interesting interview now takes place between him and the chaplain and Agent, during which a brief account is taken of his former life, education, habits, propensities, vices, &c. when he is again, and for the last time, kindly and affectionately advised and admonished; and then, frequently with eyes streaming with tears of joy and gratitude, he bids them a tender farewell.

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( C. )

### *Letter from James Hall.*

*New-York, Jan. 14, 1833.*

Hon. I. R. VAN DUZER:

Dear sir—I have the honor to acknowledge the receipt of a letter from you, dated the 3d, and post-marked the 6th instant. However incompetent to satisfy the important inquiries contained in it, I feel honored by your notice on the occasion, and shall proceed to answer your letter in that spirit of frankness which I consider the magnitude of the subject requires, and which will be most acceptable to yourself and your coadjutors of the committee. First you ask my opinion of the quality of the marble upon the premises belonging to the State at Sing-Sing, so far as my knowledge of the article extends. I answer, that, in the most unqualified sense of the term, it is of the most inferior quality. I cannot be mistaken in this matter; my knowledge of marble is the result of long experience, and much hard labor. It has been the material out of which I have chisselled my fortunes, whatever they may be. The texture, or consistence of the Sing-Sing marble, is not sufficiently firm to insure durability, and it is extremely liable to contain flaws,

or layers of decomposed substance, even in the largest blocks, which render them less valuable for heavy and profitable works, after all the expense and labor of quarrying. This is my candid opinion of the quality of this marble. It is honestly expressed; and when the question for the gentlemen of the committee to decide, in behalf of the State, relates to profit or loss, and well founded objections exist against the very quality of the article to be furnished for market, I trust that it will not be deemed impertinent for me to suggest, that the quarrying of marble at Sing-Sing, can never become in any great degree, profitable.

Second. You ask whether I suppose the convicts could be hired to contractors for their labor in the stone-cutting business, the contractors having the privilege to furnish stone from the quarries, or such *other places*, and of such kinds as they might please, to be landed on the prison wharf, and prepared in the yard of the prison for use? I can perceive no solid objection to the plan detailed in this question, and the concluding paragraphs of your letter. There are marbles of an excellent quality for building, lying in parts of Westchester county, adjacent to the prison. The rough blocks could be brought there to be worked, and transported thence in a finished state, with great certainty, cheapness and despatch. I know that objections have been urged against the State of New-York competing with her citizens in any branch of business, particularly in that of stone-cutting. But mark the fact: The objections have not been raised against the right, but the mode of this competition. In other words, the powerful State of New-York has been, perhaps through ignorance, or inadvertence, brought by her agents into competition with the hard working mechanic, through the doubly ruinous process of underbidding in the market.

Let the State hold the *labor* which she may have to hire out, at the fair market price, and then, I feel assured, the free mechanic will not complain; because the comparative inconvenience of the location of her great work-shops, the obstructions thrown by winter in the way of a continued transportation of the finished material, and other obstructing causes, will always keep up such a counterpoise in his favor, upon the interests and necessities of the employer, as to ensure the rent-paying, and family-feeding journeyman, of the city and country, constant and profitable employment. The services of a convict would be equally as valuable at stone-cutting, as any other branch of business at which they might be employed. Should any thing further occur to my mind, you may rely upon my communicating it. Having been from six to seven years engaged in the Sing-Sing quarries, before the State purchased them from Mr. Marsh, what I have just now stated for your consideration, may be depended upon; and any further information you may desire to have, if it lays within my knowledge, I shall be happy at all times to forward to your consideration.

Respectfully, your ob't servant,  
JAMES HALL.



( D. )

*Letter from John I. Labagh, Masterton & Smith, Rogers & Maffat,  
and James Hay.*

NEW-YORK, January 28, 1833.

Dear Sir—

Your letters of the 3d instant, to several of the master stone-cutters in this city, were duly received. According to your request, a number of gentlemen have consulted together on the (to them interesting) subject, and we would have answered them before this, if we could have visited the quarries at Sing-Sing, as we intended to do, but owing to the ice in the river we could not get there conveniently; since which we have seen a statement of the Inspectors of the prison, taken from the Albany Argus, from which it appears to us, that it would be unnecessary for us to go to the trouble and expense of visiting the said quarries.

We would merely remark on your first interrogatory, that the marble that we have seen here from those quarries, is of an inferior quality, (both as to texture and uniformity of appearance,) to that which we have been in the habit of receiving and working, from other quarries.

Your second inquiry is more difficult to answer, as it involves questions very serious, if not altogether destructive and ruinous in its consequences, to nearly all the journeymen in this city, employed in preparing stone or marble for buildings here, or indeed any where in this State.

On reflection you will at once perceive, that if we contract to get our work done at the prison, it *must* be done at a lower price than men having families to support or even single men can do the the same work for here; consequently those men must be reduced to poverty, and at an advanced age, would be under the necessity of seeking for other employment, which would be cruelty indeed, in the extreme.

There is another view of the subject; (according to the present system, which certainly is very laudable, if all can be realized which is hoped for from it,) when the term of service for which the convicts are sentenced has expired, should they come out reformed in their morals, also good workmen, *where are they to find work at stone-cutting?* for it appears from the last statement of the Inspectors of the prison, that there are more men employed in the prison, by twenty-five per cent., at that business, than there are employed in this city; so that the business of stone cutting, if persisted in at the prison, must be very much injured, if not altogether eventually destroyed. For it is impossible for *individuals*, in contracting for work, without great sacrifice of capital, to come in competition with the State Prison; the State Prison work must be done from 10 to 20 per cent. less than what it can be done for here. If we reduce the price here to what it will cost without any allowance at all to the employer, for his time in procuring and over-

looking work, at the State Prison, the work will be done for a less price, which must drive all competition from the market. At the State Prison, that business must be done that most can be made of, or in other words, *that by which least will be lost*; the State treasury always supplying the deficiency wanting, to support the expenses of the prison.

There are other objections which might be mentioned, such as the utter impossibility of preparing the work at the prison, without the necessity of fitting it at the building, getting it here in the winter when the river is not navigable on account of the ice, &c., &c., too numerous to mention and enlarge on in a communication by letter, but could be easily explained at a personal interview; indeed much more might be said as to the principal objection, as it relates to the journeymen employed here.

Believing the hints thrown out sufficient, we forbear extending our remarks.

We remain,

Very respectfully,

Yours,

JOHN I. LABAGH,  
MASTERTON & SMITH,  
ROGERS & MOFFAT,  
JAMES HAY.

The Hon. I. R. VAN DUZER.





**No. 200.**

**IN ASSEMBLY,**

**February 25, 1833.**

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**REPORT**

**Of the committee on claims, on the petition of  
Emery D. Spalding.**

Mr. Russell, from the committee on claims, to which was referred the petition of Emery D. Spalding, of the town of Denmark, in the county of Lewis, praying a pension from the State, in consequence of losing his right hand by the premature explosion of the charge in a cannon on the 4th day of July, 1828, while in the discharge of militia duty on that day,

**REPORTED:**

That from the petition and documents accompanying the same, it appears that on the 4th day of July, 1828, the petitioner was a gunner in a company of artillery in the town of Denmark, in the county of Lewis, commanded by Cap. Lewis Pearce; that the petitioner, with the company, was ordered out on that day to perform militia duty; that while serving as such gunner during said day, by some inattention of the vent-tender of the cannon, the charge in the gun prematurely exploded, and so injured the right hand of the petitioner as to render its amputation necessary, which was done a few inches above the wrist joint.

It appears from a document accompanying the petition, subscribed by many of the most respectable inhabitants of the counties of Lewis and Jefferson, that the petitioner, Spalding, is a young man of good habits and fair character, but in indigent circumstances; and that by reason of said accident, he has been rendered unable to obtain by his own exertions a comfortable living.

The calamity which has befallen this unfortunate individual, occurring as it did upon a day and on an occasion, the contemplation  
[Assem. No. 200.]

of which presents to the view of the patriot, the philanthropist and the christian, many associations for grateful remembrance; presented too, under auspices so much entitled to our respect and confidence, cannot but force upon the mind of every American at least, deep and abiding impressions; the memory of the past revives, and the sufferings and triumphs of those who have gone before us, and laid the foundation for our present prosperous condition, are presented in full review. The sympathies of all are invited, and the tenderest emotions which influence the conduct of man, are pressed into action, to relieve the sufferings of the afflicted individual; even the blighting grasp of avarice relaxes its untiring hold, and from its accumulated treasures the sufferings of the soldier is relieved.

Upon this simple relation of facts, our individual sympathies cannot but be awakened; but while we call up to view the wounded and suffering applicant, sympathy alone should not be permitted to control our actions; that sober deliberative and discriminating sense which requires us to do justice to all, must not be overlooked; and however desirous individually we may be to alleviate the sufferings of the afflicted, a just regard to others should require deliberation before we act. Can we then extend to the applicant the relief sought for without doing injustice to others? By an inconsiderate step, prompted by feeling, not regulated by judgment, a door might be opened which would lead to most disastrous consequences.

The petitioner seeks for relief upon the ground that he was in the service of the State when the accident happened. He was indeed in the discharge of a duty thrown upon him by the government which protected him, and this service or the discharge of this duty was a part of the equivalent for that protection. Perhaps on that day 50,000 of our fellow-citizens were rendering this same service, and if all had fallen victims to this same calamity, all would have been equally entitled to this relief. The common laborer who is performing his task upon the public highway, would also be entitled to relief. All the officers in the performance of civil duties, from the executive to the constable, would fall within the range of this rule, if there was in the nature of the service any thing upon which a claim could rest. Each of these individuals is required by law to perform these services, and each is therefore equally in the employ of the State. These cases do not rest upon the principle which prevails in relation to enlisted soldiers, for national military operations. Pensions are given to disabled soldiers on the ground

that it is a part of their contract when enlisted, that if they are disabled in the service, the government shall sustain them, and this always enters into the consideration for their enlistment, operates as an inducement to it. When, therefore, we extend our views beyond the narrow limits which confines our vision to the individual applicant, we must readily perceive the dangerous extent which lies before us. Under the extended view which the committee have taken of the case under consideration, they have come to the conclusion that the prayer of the petitioner cannot properly be granted, and they therefore offer for the consideration of the House the following resolution:

*Resolved*, That the prayer of the petitioner, Emery D. Spalding, ought not to be granted.



**IN ASSEMBLY,**

**February 25, 1833.**

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**REPORT**

**Of the committee on claims on the petition of Lucas Elmendorf.**

Mr. Russell, from the committee on claims, to which was referred the petition of Lucas Elmendorf, (together with the report of the Comptroller thereon,) praying the passage of an act authorising the Comptroller to execute deeds of conveyance to him for certain lots of land purchased at a public sale for taxes,

**REPORTED:**

The petitioner states, that in the year 1826 he became the purchaser of several lots of land, at the Comptroller's sale thereof for taxes, and paid into the treasury of the State the amount, as the purchase money, and took from the Comptroller certificates in writing, describing the lands purchased, the sums paid, and the time when he would be entitled to a deed, pursuant to the provisions of the act in such case made; that said lands were not redeemed within the time limited for the redemption thereof, nor have they yet been; that said certificates have been mislaid or lost, and that the petitioner is not able to produce the same; that the petitioner has called upon the Comptroller for deeds of said land, the same not having been redeemed, but the Comptroller declined giving him deeds therefor, unless he produced and cancelled the original certificates; which the petitioner was and still is unable to do; that said certificates have never been transferred to any person whomsoever, and that the property in said certificates and lands is still in the petitioner.

These leading allegations are verified by the oath of the petitioner, and established to the entire satisfaction of the committee.

This petition has been referred to the Comptroller, and his report thereon concedes that the petitioner was a purchaser, as herein before stated, and became entitled to a conveyance for the lands purchased, at the expiration of two years from the time of closing the sales, the execution and delivery of the certificates, and the loss thereof; and that the petitioner has applied to him for conveyances for said lots so purchased, and that he has declined giving them. The Comptroller, believing that he is not authorized by law to give the conveyance unless the original certificate shall be produced; and upon that ground alone he declines. It also appears that no other person than the petitioner has claimed from the Comptroller conveyances for the lots so sold.

At the time of sale an entry is made, in all cases, in the Comptroller's book of sales, describing the land sold, the amount for which it is sold, the name of the purchaser, and the time when he will be entitled to a deed if no redemption is made; and the certificate which the Comptroller gives to the purchaser, is a mere transcript of this entry. This book remains in the Comptroller's office, and though not technically a record, yet it remains in the office a perpetual evidence of the right of the purchaser, and for all practical purposes it is tantamount to a record. It is then more controlling in the scale of evidence than the transcript. The certificate required to be given is for the security of the purchaser, and furnishes him with the evidence of his right to the land. This certificate is not negotiable, but it may be transferred for good consideration, and the holder or assignee thereby becomes entitled in equity to a conveyance from the State. Hence the allegation in the Comptrollers' report, that "the practice of the office is to give the deed to the purchaser or his assignee, or the holder where the certificate is endorsed in blank." When no redemption has been made, the lands are to be conveyed to the purchaser by the Comptroller, unless he has evidence that the *right* of the purchaser has been transferred; in the absence of evidence no such transfer will be presumed, but the business of the office will be conducted upon the hypothesis that no transfer has been made. If in fact the certificate has been transferred, it is throwing upon the holder or assignee no greater burthen than is cast upon other individuals who become assignees of choses in action, who are re-

quired to give notice of the assignment or transfer. Their rights are then effectually secured. But suppose the land redeemed, the certificates then become ineffectual, so far as the land is concerned; but the money paid into the treasury remains there for him whose right it is to receive, and the same rule of practice would enable the owner of the certificate to obtain the money which would secure to him the land, in case no redemption had been made.

The Comptroller seems to suppose that he is prohibited by law from conveying the land to the purchaser unless the certificate originally given shall be produced. In this the committee think the Comptroller is mistaken. There is no law allowing him to withhold the conveyance, except in a single specified case, and that is where he shall discover, previous to the conveyance, *that the sale was invalid, and ineffectual to give title*; and in that case, he is to return the purchase money, with the interest thereon, to the purchaser. The 80th section of the act to which the Comptroller refers, (1 R. S. p. 411,) prescribes his duty in case no redemption shall be made within said two years. He is directed "to execute to the purchaser, his heirs or assigns, in the name of the people of this State, a conveyance of the real estate so sold." If then he omits or refuses to execute this power which is thus conferred upon him, the law now furnishes an ample remedy for the petitioner. A court of law will generally compel a subordinate officer to perform a required duty, when that duty is clearly shown to exist; and the omission to discharge it is attended with injurious consequences to an individual. This the committee believe to be such a case. If the facts herein before set forth were made to appear to the supreme court, there can be no doubt, the committee apprehend, but that they would by mandamus direct the conveyance to be given. There is in this case no imputation to be cast upon the Comptroller. He has acted with great and commendable prudence in this matter, and evidenced a determination not to act unadvisedly in a matter of doubtful propriety.

The evidence adduced to the Comptroller has been such as to satisfy him that the certificates in question have been lost; and indeed it is that kind of evidence which would be receivable in a court of law were the controversy between two individuals. When then he is fully satisfied that such certificates have not been transferred and are lost, the committee cannot discover any necessity or propriety



of changing the law, and throwing the duty of judging in this matter upon any other department of the government. It now is reposed in safe hands, and with the power which that officer now has, it is believed an investigation can be conducted with almost positive certainty of arriving at truth in relation to a matter of this description. Under these circumstances, the committee are of opinion that the Comptroller has full power to execute the deed to the purchaser for the lands covered by the lost certificates, and are of the opinion that so much of the prayer of the petitioner as relates to this subject ought to be denied.

But the petitioner further states, that at the Comptroller's sale for taxes in 1830, one Arnold Nelson purchased four hundred and fifty acres, parcel of division No. 66, of great lot No. 36, in the Hardenburgh patent in the county of Delaware, for the taxes then due thereon; that in the month of April, and before the time of redemption expired, he purchased from said Nelson the certificate of sale taken by said Nelson from the Comptroller, and took from said Nelson a transfer thereof; that having other lands which had been sold for taxes in that section of country, he called at the Comptroller's office a few days before the time of redemption run out, for the purpose of redeeming his said other lands, but not intending to redeem lot No. 66; but the office was so thronged with persons who were then redeeming their lands, that the petitioner directed one of the clerks in the office to pay what was necessary to redeem the other lands of the petitioner before the time should expire, and left money with him for that purpose, and went home; that shortly after the time of redemption had expired, he called at the Comptroller's office for his deed of said lot No. 66, and found that the clerk, by mistake, had applied a part of the money so left to the redemption of said lot No. 66, contrary to the instructions and against the wishes of the petitioner, in consequence of which the Comptroller refused to execute to the petitioner a deed therefor. The certificate of the Comptroller to Nelson, and his transfer to the petitioner have been exhibited and established to the satisfaction of the committee. Under these circumstances, the petitioner asks that a law may be passed authorising the Comptroller to convey to him the land covered by the certificate to Nelson.

The committee are of opinion that the erroneous application of the money left with the clerk in the office, did not discharge the

land from the effect of the sale. That it must have been the result of mistake cannot be doubted, for the petitioner had purchased from Nelson his certificate of sale covering this very land; and it cannot be believed that after that had been done, he would then redeem this very land, and thereby destroy the object of his purchase.

With this view, the committee are of opinion that in this particular the prayer of the petitioner ought to be granted, and they have prepared a bill for that purpose, and now ask leave to introduce the same.



**IN ASSEMBLY,**

**February 20, 1833.**

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**REPORT**

**Of the committee on claims, to which was referred the petition of Samuel Hollister and Jesse Hollister.**

Mr. Russell, from the committee on claims, to which was referred the petition of Samuel Hollister and Jesse Hollister, [praying remuneration for the diversion of the waters of the Cawasselon creek,

**REPORTED:**

The petitioners allege, that in the year 1816, they erected a saw mill on the Cawasselon creek, in the town of Lenox in the county of Madison, at an expense of about two thousand dollars, which was in successful and profitable operation when, in 1819, a portion of the waters of said stream were diverted from said mill into the Erie canal, which stream forms the peincipal feeder between Wood creek and Chittiningo; that it was then believed that the mill would be deprived of the waters of said Cawasselon creek about three months in each year, and that for the residue of the time the mill would have the benefit of the surplus waters of that stream. Upon this hypothesis the canal appraisers estimated and assessed the damages of the petitioners for the diversion of such portion of said waters, as was then thought necessary, to the amount of one thousand two hundred and fifty dollars. Founding their estimate upon the idea, too, that for the nine months in the year the works of the petitioners would be rendered more valuable by the increased quantity of water flowing thereto from the superabundance during that period on the canal.

After this the petitioners, at an expense of between three and four hundred dollars, brought to their works another stream which passed off under the canal, for the purpose of supplying, in some degree, the deficiency occasioned by the aforesaid diversion, and again put their works in successful operation: That in the year 1827, the whole surplus waters which flowed from this level were sold by the State for the sum of nearly five thousand dollars, and the petitioners deprived wholly of every participation in them; by which, their works were rendered wholly useless, and have since gone to decay: That the petitioners were the owners of the land on which their works were erected, and across which land, said Cawasselon creek naturally flowed: That, before the diversion of said creek into the canal, there was a deficiency of water upon this level; and that the redundancy of water thereupon which has been sold, of *right* belonged to the petitioners. If these allegations are true, and they appear to the committee to have been well authenticated, it is obvious that the State has made a profitable operation. Before the waters of this creek were diverted, there was a lack of water on this level; but after *all* the stream is taken, the superabundance is sold for nearly five thousand dollars, for which the State has paid, by way of damages, \$2,250, including \$1,000 paid the petitioners in 1828. The actual expense which the petitioners have laid out on their works, and the improvements connected therewith, is about the sum they have received, leaving them wholly without compensation for the water and the important site for their works.

The petitioners allege the last \$1000 was received by them under peculiar pecuniary embarrassments; that they had incurred heavy responsibilities, lying on their aforesaid works to relieve them and when they were deprived of that source of revenue, their destruction appeared almost inevitable, and to relieve them from this pressure, they were in effect compelled to receive the said amount.

From the view which the committee have taken, and the importance of the subject, they have thought it their duty to advise sending this claim again to the canal appraisers that they may do what justice shall require; they have therefore prepared a bill for that purpose, and ask leave to introduce the same.

**IN ASSEMBLY,**

**February 27, 1833.**

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**REPORT**

**Of the select committee appointed to inquire into the propriety of providing for the discharge of certain state prison convicts.**

Mr. Bishop, from the select committee appointed to inquire into the propriety of providing for the discharge of such convicts sentenced to the state prisons for life, who are now in confinement for offences, the punishment of which has been mitigated by the Revised Statutes,

**REPORTED:**

That in the discharge of their duties they have corresponded with the Agents of the prisons at Mount-Pleasant and Auburn, for the purpose of ascertaining the number and the names of the persons now in confinement, to whom the above resolution was intended to refer; the counties where, the judges before whom, and the crimes for which they were committed; together with the date of their conviction and the terms of their sentence. Although the resolution is confined to convicts sentenced for life, the committee were unanimous in the opinion that if any legislative action ought to be had on the subject, such action should extend as well to those sentenced for a term of years, the punishment for whose offences had been mitigated, as those who may have been doomed to imprisonment for life. In reply to our letters, the committee received from Messrs. Lewis and Wiltse the accompanying answers, together with abstracts from the prison books, affording all the information which we deem necessary to be presented to the Legislature.

By adverting to those abstracts it will be perceived that there are a large number sentenced for longer terms than would by our present criminal code have been applied to their transgressions. The committee do not believe that the commission of crimes should be deemed any more obnoxious because of the particular year or month in which it may be perpetrated, and they are clearly of the opinion that if the experiment of mitigated punishment, (so far as the term of confinement is to be regarded,) which we believe is being so advantageously pursued in our improved penitentiary system, were advisable at the time of its adoption, that it ought to apply, so far as may be practicable, to those already in prison, as well as to subsequent offenders; and in the true spirit of benevolence, that its blessings should be showered "upon the unjust as well as the just." The committee are aware of the difficulties adverted to in the letter of Col. Lewis, which they do not deem it necessary to repeat in their report. But if the honorable the Legislature shall agree with us in the propriety of passing the annexed resolution, his excellency the Governor can doubtless obtain from the judges before whom the individuals were convicted, information which will enable him in most if not all cases, to carry into effect the object intended to be embraced in the resolution. The committee conclude by offering for the consideration of your honorable body the following.

*Resolved*, (if the honorable the Senate concur,) as the sense of this Legislature, that the terms of imprisonment in the state prison for offences committed before the first day of January, 1830, ought to be limited by the punishment declared in and by the Revised Statutes; and that all persons now confined in either of the prisons of this State, under sentence anterior to said first day of January, ought to be pardoned when they shall have remained in prison for the period of time prescribed by the Revised Statutes, as a punishment for the offences of which they were respectively convicted.

*Resolved*, That the above resolution, with the report of the select committee and accompanying papers, be handed over to his excellency the Governor.

**IN ASSEMBLY,**

**February 26, 1833.**

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**REPORT**

**Of the committee on trade and manufactures, on the petition of Richard I. Knowlson and others, for the incorporation of the Rensselaer Glass Manufacturing Company.**

Mr. Halbert, from the committee on trade and manufactures, to whom was referred the petition of Richard I. Knowlson and others, praying for the incorporation of the Rensselaer Glass Manufacturing Company,

**REPORTED:**

That they have had the same under their consideration. The petitioners state that they are now in successful operation in the manufactory of glass. They ask to be incorporated with a capital of \$15,000. They do not state any difficulty arising from the transacting their business in the present mode. Your committee are of opinion that the prayer of the petitioners ought not to be granted.





**IN ASSEMBLY,**

**February 12, 1833.**

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**" ANNUAL REPORT**

**Of Horace Turner, an Inspector of Beef and Pork  
for the county of Rensselaer.**

*To the Honorable the Legislature of the State of New-York.*

I, Horace Turner, inspector of beef and pork, residing in the town of Lansingburgh, in the county of Rensselaer, do hereby certify and report, that since my last return, I have inspected in the whole of beef and pork, 5,129 barrels, of the following qualities:

1,991	barrels of mess beef, valued at.....	\$7 50
3,046	" prime beef, " .....	4 75
86	" mess pork, " .....	14 50
56	" prime pork, " .....	11 00
<hr/>		
5,129		

5,129 barrels at 10 cents per barrel, .... \$512.90.

**H. TURNER.**

**February 1st, 1833.**



**IN ASSEMBLY,**

**February 28, 1833.**

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**REPORT**

**Of the select committee on the petition of the supervisors of the county of Queens.**

Mr. Jackson, from the select committee to whom was referred the petition of the supervisors of Queens county, praying for an act to authorize them to raise an additional sum to defray the expense of erecting a clerk's office in said county, and also the proceedings of the court of common pleas in said county, asking the records and papers of the surrogate of said county to be removed to and deposited in the clerk's office in said county,

**REPORTED:**

That on the 21st of April, 1831, the Legislature passed an act authorising the supervisors of Queens to raise the sum of eight hundred dollars, for the purpose of purchasing a suitable site in said county, and erecting a fire-proof clerk's office thereon.

That after the passage of said act, the surrogate of said county and many of the taxable inhabitants of said county requested the board of supervisors of said county that the plan and dimensions of the building might be so extended as to furnish room sufficient for the records and papers of the surrogate of said county, and for the accommodation of the surrogate; that said board believing it to be the general wish of the county so to enlarge said building, have erected a building suitable and convenient for the office of both the clerk and surrogate of said county.

The supervisors of said county, in erecting said clerk's office and purchasing the site as aforesaid, have expended, over and above the appropriation by the act of 1831, the sum of seven hundred dol-

lars to authorise the raising of which they now ask the Legislature to pass a law.

The court of common pleas of said county also asks the Legislature to pass a law requiring the records, books and papers of the surrogate of said county to be removed to and deposited in said office.

Your committee are convinced that the prayer of the petitioners is reasonable and ought to be granted; they have therefore prepared a bill, which they ask leave to introduce.

All which is respectfully submitted.

**IN ASSEMBLY,**

**February 28, 1833.**

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**LIST**

**Of bills reported to increase the capital stock of  
banks.**

*[Printed pursuant to a resolution of the 28th Feb.]*

	<i>Increase.</i>
Greenwich bank, New-York, .....	\$300,000
Phoenix bank, New-York, .....	500,000
Butchers' and Drovers' bank, New-York,....	200,000
Farmers' bank, Troy,.....	62,000
Ogdensburgh bank, .....	50,000
	<hr/>
	\$1,112,000

In the list of bills for the incorporation of new banks, the Highland bank, at Newburgh, was inadvertent- ly omitted. Its proposed capital is \$150,000, which added to the former list, makes.....	<hr/>
	6,150,000
	<hr/>
	\$7,262,000
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**IN ASSEMBLY,**

**March 1, 1833.**

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**REPORT**

**Of the select committee on the bill entitled “An act to confirm the appointment of certain commissioners of deeds in the county of Tioga.”**

Mr. Farrington, from the select committee, to whom was referred the bill entitled “An act to confirm the appointment of certain commissioners of deeds in the county of Tioga,”

**REPORTED:**

That the commissioners whose appointment the bill referred to your committee is designed to confirm, were regularly appointed commissioners of deeds at the last annual meeting of the board of supervisors and county judges of the county of Tioga; that no notice of the appointments was given to the persons appointed till after the time limited by law for taking the oath of office; that within twenty days after receiving notice of their appointment, the said commissioners appeared before the clerk of the county at his office and took the oath of office required by law.

The delay to take the oath of office is believed by your committee to have arisen, not from any fault or neglect of the persons appointed, but from accident, or an omission on the part of the persons whose duty it was to give notice, to perform the duties required by law.

Your committee are therefore of opinion that the bill referred to your committee ought to be passed. They therefore recommend it to be engrossed for a third reading.

All which is respectfully submitted.





**No. 209.**

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**IN ASSEMBLY,**

**February 28, 1833.**

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**REPORT**

**Of the committee on banks and insurance companies,  
on the petition of sundry persons in the city of  
New-York for the incorporation of the American  
Life Insurance and Trust Company.**

Mr. W. Baker, from the committee on banks and insurance companies, to whom was referred the petition of sundry persons in the city of New-York, praying for the incorporation of the American Life Insurance and Trust Company,

**REPORTED:**

That the petitioners ask the incorporation of a company to possess powers similar to those possessed by the New-York Life Insurance and Trust Company, now existing in the city of New-York.

The business of life insurance is in its infancy in this country, and its science, as well as its use, is but imperfectly understood. It is one of the numerous modifications of the principle of adventuring the present payment of a small sum of money, with the hope on the part of the person making the payment, of receiving at some future time a larger sum, the payment of which is made to depend on some future contingency. A principle which in its varied application to the purposes of gain, has been adjusted to the intended purpose by those who are to pay the forfeiture on the happening of the contingency; and care has therefore been taken that the chances of gain in favor of the insurer, according to known rules which experience has settled, should bear a favorable proportion to those against him. In this view, insurances may properly be

considered as games of chance, in which the insurer engages with the assurance of being successful in a majority of the cases.

Upon this principle all insurance companies and all lotteries are founded. Lotteries are more pernicious in their effects, than ordinary insurances, and therefore more obnoxious; not so much because the chances of gain in favor of the insurer therein are greater than in ordinary insurances, but because their operations are generally carried on with those who are less capable of calculating those chances, than in ordinary insurances, and who are easily allured by the captivation of splendid prizes, designed by their magnitude to withdraw the attention of the adventurer from the extremely remote probability of his success.

Ordinary insurances are also recommended by their connexion with, and their beneficial effects upon the trade and commerce of the country; and it is upon this latter ground, principally, that insurances of every description are permitted to exist by law, or can be justified by reason.

For it must be admitted that in the aggregate the amount of premium exacted by the insurer, constitutes a high per-centage on the capital actually employed in the risque, and the policy of restraining the unlimited exaction of interest for the use of money, would apply with equal force to the insurer as to the banker, were it not for the aids which the commerce of the country derives from this source, in its tendency to strengthen securities, and to equalize the numerous losses inseparable from the hazards attending commercial pursuits.

Life insurance is urged by its advocates, not only as being adapted to the exigencies of a commercial community, but also as a wise and prudent means in general, of providing against the calamitous consequences of the death of an individual who in his life time possesses the means, by an insurance upon his life, at the expense of a moderate annual payment, of securing to his family a support after his death.

And although the business of life insurance is more or less diversified in its application, extending to a great variety of contingencies involving the duration of life; yet as the committee believe the most general use to which it is applied is the securing a support to the family of a person living on income, after the death of

its head, or parent; and as its operations must necessarily be confined, in a great degree, to that class of citizens most subject to the vicissitudes inseparable from commerce; as its practice is divested of the objection against lotteries, of alluring the adventurer inconsiderately to embark in the enterprize, by presenting the captivating prospect of present gain; and as in its nature its exercise is generally attended with the advantage of deliberate calculation and reflection, the committee are of opinion that under a system of premiums properly graduated, such as from the demonstrations of experience will in the aggregate secure to the insurer a moderate but certain profit, and at the same time will not require an improvident investment of the small sums demanded for premiums, life insurance may be made subservient to the great purposes of humanity and general utility.

But your committee are constrained to express the opinion, that the rate of premium on life insurance now exacted by the New-York Life Insurance and Trust Company, is much too high to deserve the encouragement of the Legislature, and that the business of life insurance as conducted by that company, will not subserve the ends abovementioned, and does not furnish to individuals having a surplus income, the means of profitably investing such surplus for the future benefit of his family, or others.

The committee, for the purpose of testing the utility of life insurance, as now practised, and of comparing the advantages derived therefrom, with other means afforded for the investment of moneys for similar purposes, have had recourse to the annual return of the New-York Life Insurance and Trust Company, made under the order of the chancellor, on the 31st of January, 1833; a copy of which return, together with the chancellor's order, is hereto annexed, and to which the committee refer the House for a statement of the affairs and condition of that institution. They have also had recourse to a table of rates of insurance appended to a letter on life insurance, written by the president of the company in question, and laid upon the tables of members of this House at the present session. The table referred to is graduated according to a scale of premiums reduced by the company more than 30 per cent below the table used by other companies in the United States, and which was adopted by the company in question, on their going into operation.

From the return of the company referred to, it appears that, according to the table of the duration of life used by the company, an individual 55 years of age has a right to expect to live  $17\frac{1}{4}$  years. And from the table appended to the letter referred to, it appears that a person of that age may secure the payment to his family, or representatives, at his death the sum of \$100, by paying to the company annually, in advance, during his life, the sum of \$5.78. Consequently, in order to secure the payment of the sum of \$1,200, the premium required annually would be \$69.36, or twelve times the amount required for \$100.

The committee, for the purpose of a test, have assumed the case of an individual, of the above age, possessed of an annual surplus income of \$69.36, and who is desirous of investing this sum annually, so as to secure the greatest possible amount for his family, at his decease. And he starts upon the supposition, according to the table used by the company, that he will live  $17\frac{1}{4}$  years. By an insurance on his life, through the payment of this sum annually during its continuance, he can secure the sum of \$1,200 at his death.

The question then arises, can he invest this amount in any better way than by embracing the offer of a life insurance?

Although the company in question, as the committee believe, do not receive in deposit, sums less than \$100; yet, as in most cases the annual premium on a life insurance is at least \$100, and as there are other institutions in which it is believed sums of the amount here supposed may be deposited for accumulation at 4 per cent, the committee have adopted that rate. And have gone through with the calculation, in order to ascertain the amount which the individual in question would secure, at his decease, by depositing this sum annually for accumulation. And they have ascertained that, by adopting this latter course, the person in question will, at his death, have secured to his family the sum of \$1,801.16. The sum of \$601.16 more than could have been obtained by a life insurance, at the expense of the same amount annually.

The committee have also gone through with a similar calculation, of the case of an individual of the same age, wishing annually to appropriate, for the like purpose, the sum of \$289. For this

sum, annually paid for a life insurance, the sum of \$5,000 may be secured at his death.

By depositing this sum annually to accumulate, as above, at 5 per cent per annum, an interest which it is believed a sum of this magnitude, for the term here supposed, will readily command, the individual at his death will have secured to his family \$8,345.50, the sum of \$3,345.50 more than would have been realised by a life insurance.

But this is not the only difference in these two modes of investment. Many cases may reasonably be supposed to occur in which, during the long term of 17½ years, the individual thus depositing or insuring may become totally unable to pay the annual premium or deposit, in which case he who purchases a life insurance unavoidably forfeits all payments, by way of premium, made by him; whereas he who deposits for accumulation, not only does not forfeit his deposits, but the whole amount continues to accumulate, until he thinks proper, or finds it convenient to renew his deposits or withdraw the whole amount.

Another of the powers of the New-York Life Insurance and Trust Company, and which is proposed, by the petitioners to be copied into their charter, is that of granting annuities. By which an individual, by the present payment of a gross sum becomes entitled, by the grant of the company, to receive an annuity of a less sum during his life, or for any other period agreed upon, and to commence at the present or at some future period.

According to the table of rates, by which the company is governed in granting annuities, an individual of 55 years of age is enabled, by the present payment to the company of \$1,200, to secure during his life an annuity of \$100, the payment thereof to commence at the expiration of one year after the receipt, by the company, of the gross sum. Or in other words, the company agrees to pay the individual an interest of  $8\frac{33}{100}$  per cent, during his life, upon the \$1,200 deposited by him, on condition that that sum shall be forfeited to the use of the company at his death.

A practice which is said to have found some encouragement with the company referred to, is that of an individual purchasing an annuity of the company, by the present payment of a gross sum, and then insuring upon his life an amount for which the annuity

thus purchased constitutes the appropriate annual premium, by immediately pledging the former for the payment of the latter.

To exemplify this double operation the committee have again assumed the case of an individual, of the age of 55 years, who, by the payment of \$1,200, secures an annuity payable during his life of \$100.

By pledging this annuity he effects an insurance on his life, by which he secures to his family, at his death the sum of \$1,730.

Now, as the individual here supposed has a right to expect to live 17 $\frac{1}{2}$  years, it follows that his \$1,200 would have that period in which to accumulate, if deposited for accumulation; and should he deposit that sum for the term here supposed, to accumulate, at the moderate rate of 4 per cent per annum, he will, at his death have secured to his family the sum of \$2,387.

The same difference in the advantages of investing small sums of money by annually paying those sums to the company, by way of premiums on life insurance, or depositing them with that or some other institution to accumulate, for the benefit of the depositor, runs through all the different ages of individuals, and applies equally to all sums of money, whether greater or smaller than those supposed by the committee. The committee have selected the cases here mentioned merely to exemplify and compare the different operations of these institutions.

But by far the most important among the powers incident to the incorporation contemplated by the petitioners, are those in relation to trusts and loans. The New-York Life Insurance and Trust Company, to which the incorporation prayed for by the petitioners, is designed to be conformed, in all respects, except the amount of its capital, was incorporated in 1830, with a capital of one million of dollars. In addition to the loaning of its capital, which it was required to do upon real security within this State, and one-half thereof without the limits of the city of New-York, it was also authorized to receive moneys in trust to accumulate at such rate of interest as might be agreed upon, not exceeding the legal rate, to an unlimited amount, and to loan the same on real or personal securities.

By a reference to the annexed return of that company, it will be seen that the full amount of its capital has been loaned on real se-

curity in pursuance of their charter; and that in addition thereto, the sum of \$2,521,630<sup>11</sup>/<sub>100</sub> has been received by the company by way of deposits in trust, which has also been loaned out by the company; \$1,101,560<sup>11</sup>/<sub>100</sub> thereof on bond and mortgage, and the residue, being \$1,320,070<sup>64</sup>/<sub>100</sub> on stocks, and other personal securities.

On a comparison of the annual return of that company, made on the 31st January, 1832, with that of the present year, which is hereto annexed, it will be seen that the amount of loans of moneys received by the company by way of deposits has increased within the last year from \$944,373<sup>37</sup>/<sub>100</sub> to the above mentioned sum of \$2,521,630<sup>11</sup>/<sub>100</sub>. Almost tripling the amount of trust loans in the space of one year. And no reasonable doubt can be entertained that this amount will continue rapidly to increase.

The security which these institutions offer to those who are disposed to intrust them with their funds, is the capital of the respective companies; and the committee are of opinion, that in granting charters of this description, a due regard ought to be had to the proportion which such capital should always bear to the amount of trusts which they are respectively authorized to receive and loan.

There is no limitation in this respect in the charter of the New-York Life Insurance and Trust Company. And unless the Legislature interpose, and by an amendment to its charter, prevent the increase of the amount which this company may receive in deposit, it is not difficult to perceive that the amount of responsibility assumed by the company will ere long be vastly disproportionate to the security which it affords.

It is found to be a wise policy in reference to bank issues, to restrain those issues to twice and a half the amount of capital actually paid into the vault of the bank. And on a close examination of the subject, it will be seen that the reasons which induce a limitation of bank issues, apply with equal force to the case of trust loans.

The office of bank capital is to secure to the bill holder the faithful redemption of its bills, and in addition to its capital, the bank also holds the endorsed notes of those to whom the bills were originally issued to the same amount of those issues. In like manner the



purpose of the capital of the trust company is to secure the repayment of the sums deposited with it, and for which sums the depositors, or cestui que trusts, hold the certificates of the company; and in addition to its capital, the company also holds the bonds and mortgages, stocks, and other securities, on which its loans were made, to the amount of those loans. In the one case, the amount of responsibility assumed by the bank is measured by the amount of its bills in circulation. In the other case the amount of responsibility is equal to the amount of unredeemed certificates issued by the company; and in each case the capital of the company is the only pecuniary pledge for the fulfilment of its trust.

Your committee, therefore, are of the opinion that a limitation of the amount of moneys to be received in trust by the incorporations in question, similar to that in the case of bank issues, ought to be provided.

The attention of your committee has also been attracted to the rate of interest imposed upon the borrower by the institutions in question. For in the opinion of your committee, although it be admitted to be the tendency of trust companies to invite the investment of foreign capital, and although the rate of interest actually realized by the foreign capitalist be never so low, yet if the premium paid by the country by way of interest either for the benefit of the foreign capitalist, or his trustee resident here, or both, be a rate of interest high in respect to the value of money; such investment of foreign capital will ultimately prove an injurious drain upon the country; and unless so regulated as to limit this draft upon the productions of the lands pledged for its payment to a standard reasonable and moderate in reference to the value of money, ought, in the opinion of your committee, to be guarded against and discouraged. For it is obviously of little consequence to the country at what rate of interest the foreign capitalist makes his investment with his own agent or trustee resident here, provided the ultimate premium paid by the borrower, whose real estate is pledged therefor, is burdensome or excessive.

The rate of interest allowed by the charter of the existing trust company, and at which most of its loans are made, is 7 per cent per annum, payable half yearly. The advantage to the company in receiving interest semi-annually on loans, is about 1 per cent upon the amount loaned. In addition to this, the borrower pays incidental charges, such as for depositions as to deductions of ti-

tle, copies and extracts from records, certificates of clerks of courts and counties, drawing bonds and mortgages, recording mortgages, and counsel fees for examination of title, to a considerable amount upon each loan, the average of which the committee have no means of arriving at, but have no doubt that in the average, the borrower, including all the several charges here enumerated, is made to pay an interest of at least 8 per cent per annum on 7 per cent loans.

Your committee, therefore, after bestowing upon the subject the best consideration which the means afforded them have enabled them to give it, have come to the conclusion that it is inexpedient at the present time to increase the number of trust companies, and thereby to increase the power by a combination of interests to extend loans to an indefinite amount at a high rate of interest, and that the prayer of the petitioners, therefore, ought not to be granted.



# ORDER, &c.

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*At a Court of Chancery, held for the State of New-York, at the city of Albany, on the nineteenth day of November, in the year one thousand eight hundred and thirty-one.*

**PRESENT—REUBEN H. WALWORTH, Chancellor.**

*In the matter of the New-York Life Insurance and Trust Company.*

PURSUANT to the provisions of the act, entitled, "An act to incorporate the New-York Life Insurance and Trust Company," passed ninth day of March, one thousand eight hundred and thirty, it is ordered, that the Board of Trustees of said company exhibit to the Chancellor, and file in the office of the Register of the Court of Chancery in the month of January next, and in the month of January in each year thereafter, a statement of the affairs of the said company for the political year next and immediately preceding the exhibition of such statement; which statement shall exhibit and set forth the amount, and the particular nature and description, of all the funds, property, securities, and effects of the said company, or which are under their care, control, or management, in trust, or for the benefit of others, as the same existed at the end of the said political year, and on the first day of January thereafter, as follows:

1st. The amount of the capital stock of the company loaned out on bonds and mortgages, exclusive of interest; specifying the amount loaned in each county of the State; the amount, if any, on which any part of the interest remains due, and has remained due for more than six months; and the amount, if any, of the bonds and mortgages, exclusive of interest, given for the said capital stock, which are in suit, or judgment, or on which prosecutions have been directed, to compel the payment of the principal or interest due thereon.

2d. The amount, exclusive of interest, of other loans on bonds and mortgages, other than loans to moneyed corporations, or to their officers or agents for their use and benefit, specifying the amount loaned in each county, the amount on which interest has been due more than six months, and the amount in suit, or ordered for prosecution, as aforesaid.

3d. The amount, exclusive of interest, of loans of stock securities, other than loans to, or for the use of moneyed corporations, as aforesaid; specifying the amount loaned on each kind of stock; the number of shares, and the nominal, and the market value thereof; the amount payable on demand at the time of the loan; the amount loaned for limited periods less than six months; the amount

loaned for six months or more; the amount, if any, on which interest has been due more than six months; and the amount in suit, or ordered for prosecution as aforesaid; also specifying the amount of loans, if any, where the principal and interest due thereon exceeds the market value, at the time of such statement, of the stocks pledged for the security thereof, and the amount of such excess.

4th. The amount of loans on bonds, bills, or notes, with personal securities only, other than loans to or for the use of moneyed corporations as aforesaid; specifying the amount payable on demand; the amount loaned for limited periods less than six months; the amount for six months or more; the amount, if any, on which interest has been due more than six months; and the amount in suit, or ordered for prosecution, as aforesaid.

5th. The amount due from individuals on account, other than loans to or for the use of moneyed corporations, as aforesaid; specifying the names of the several persons from whom the same is due; the amount due from each; the nature of their indebtedness; the time when the several debts were contracted, and when they became payable; whether collectable or not; and whether in suit or prosecuted.

6th. The amount of interest due to the company on any of the above mentioned loans, computed up to the first of December, or the first of January, as shall be most convenient for the company: distinguishing the amount due on loans upon which any part of such interest has been due more than six months, from the amount due on loans on which no part of the interest has been due for more than that period.

7th. The amount of all loans to moneyed corporations, or to their officers or agents, for their use or benefit; specifying particularly the amount loaned to each corporation, or its officers or agents; the time when and for which the loan was made, the rate of interest payable thereon; the nature and value of the security taken or held by the company for each loan; and the amount of interest which is due and has become payable to the company thereon, computed as aforesaid.

8th. The amount of stocks owned by the company: specifying each kind and description; the number and nominal value of the shares of each; and the market value thereof, at the prices at which such stocks were purchased or received in payment.

9th. The amount of real estate owned by the company, with a general description thereof, specifying the price at which each separate parcel thereof was purchased or received; the amount which has been expended for buildings and improvements thereon, other than for ordinary repairs charged in the expense account, or paid out of the rents; the present value of such real estate, and the particular portions of the same which are occupied by the company as necessary for the transaction of its business.

10th. The amount of money on hand: specifying the bank in which it is deposited; or, if the same remains in the hands of any officers or agents of the corporation; specifying the names of such officers or agents, and the amount in the hands of each.

11th. The amount and real value of all other property or effects of the company: specifying the nature and value of such property and effects particularly.

12th. The amount of all securities taken for moneys received by the company in trust, to be invested at the risk and for the benefit of the persons from whom such moneys were received, or of other persons designated by the trust.

And which statement shall also exhibit and set forth the number of stockholders; the amount of the capital stock of the company; and the amount and particular nature and description of all debts, demands, and claims against the company; and of all responsibilities incurred by the company, as follows:

1st. The amount of the capital stock of the company, and the number of stockholders owning the same; designating the number of stockholders residing out of the State, and the amount of stock held by them collectively; the number of stockholders residing in the State, other than the trustees of the company, and the amount of stock so held by them; and the number of trustees of the company residing in the State, and the amount of stock held by each; but without disclosing the names of such trustees in connexion with the amount of stock held by them respectively.

2d. The amount of moneys deposited on trust, by order of the court of chancery, or of any of the surrogates, to be invested or kept at the risk of the company, including moneys deposited on trust of accumulation, and the accumulations thereon which have become a part of the principal.

3d. The amount of deposits by other persons and companies other than monied corporations, on trust, to be invested or kept as aforesaid, or on trust of accumulation; and including the accumulations thereon which have become a part of the principal.

4th. The amount of deposits by banks, and other monied corporations, on trust, to be invested or kept as aforesaid, or on trust of accumulation, including the accumulations thereon which have become a part of the principal; specifying the amount deposited by each company.

5th. The amount of interest which has become due and payable on each of the deposits in trust as aforesaid, other than accumulations estimated as part of the principal; computed up to the first of December, or the first of January, as shall be most convenient for the company.

6th. The amount received by the company, or for which it is liable, as guardian of the estates of infants, including accumulations thereon, and interest, computed as before directed, and deducting expenses and commissions.

7th. The amount received by the company or for which it is liable, as receiver, including accumulations and interest as aforesaid, and deducting expenses and commissions.

8th. The amount due for life insurances, which have not been paid, after the event has happened.

9th. The amount received for premiums on life insurances where the persons whose lives are insured are still living: specifying al-

so, the number of such lives remaining insured; the average length of time such lives will continue, according to the tables used by the company; the amount of premiums payable annually to the company on such insurances; and the amount which will become due from the company upon the deaths of such persons.

10th. The amount due for arrears of annuities, which have become due and payable.

11th. The amount received upon the sale of annuities, where the annuities still continue: specifying also, the number of such annuities; the average time of the continuance thereof, according to the annuity tables, and the total amount payable therefor, annually.

12th. The amount of all dividends, unpaid to the stockholders entitled to the same.

13th. The amount received on trust to be invested at the risk and for the benefit of the persons from whom the moneys were received, or other persons designated in the trust; including the interest or income received thereon by the company, and remaining in its hands; deducting the expenses and commissions on such investments and trusts, as agreed on by the parties, or as fixed by the by-laws or regulations of the company, at the time of the creation of the trust, where no special agreement as to such expenses and commissions was made by the parties.

14th. The amount of all other debts or demands against the company; specifying particularly the nature of such debts, respectively, designating between such as are absolutely due, and such as may become payable on some contingent event; and such as are claimed, but not admitted by the trustees to be due.

15th. The amount of all bad debts included in the account of debts due to the company, for loans or otherwise, with the interest thereon; including all debts known to be bad or believed to be uncollectable; also, all debts not in suit, on which no interest has been paid for more than one year after it became due; and debts on which judgments have been obtained and have remained unsatisfied for more than two years.

And which statements shall also exhibit and set forth, the amounts of dividends declared during the preceding year: the names and residences of all the trustees and other officers of the company; the salaries or annual compensations paid to each of the officers of the company who receive a salary or annual compensation; and all the by-laws and regulations adopted by the trustees and remaining in force. It shall also contain such other facts and details as the trustees may think proper to insert therein; and which they may deem necessary to enable the Chancellor to form a correct opinion of the manner in which the affairs of the said company have been conducted and managed for the preceding year. And that the same be verified by the oaths of the president and secretary of the company.

(Copy,)

JAMES PORTER,  
*Register.*

## ANSWER

*Of the New-York Life Insurance and Trust Company, for the year eighteen hundred and thirty-two, to the Chancellor's Order of the 19th November, 1831.*

The Trustees of the New-York Life Insurance and Trust Company, in compliance with the Chancellor's order, respectfully answer the inquiries as arranged in the order; each answer referring to the 1st day of January, 1833.

*Inquiry 1st.* The amount of capital loaned out on bond and mortgage, exclusive of interest, was, on the first day of January, 1833, \$1,000,000 00.

In every instance, it is believed that the value of the property mortgaged is at least double the amount of the loan, and of this fact satisfactory evidence has been required, in all cases where the property did not come under the immediate cognizance and observation of the Trustees.

The amount loaned in each county of the State, is as follows:

New-York,.....	\$110,174 00	Oswego,.....	\$15,400 00
Albany,.....	84,669 98	St. Lawrence,....	2,300 00
Westchester,.....	11,000 00	Saratoga,.....	22,500 00
Oneida,.....	25,965 75	Allegany,.....	1,750 00
Tompkins,.....	32,400 00	Greene,.....	3,000 00
Erie,.....	101,958 00	Orleans,.....	15,250 00
Delaware,.....	4,100 00	Niagara,.....	9,800 00
Monroe,.....	93,782 00	Chautauque,.....	3,500 00
Columbia,.....	53,203 50	Jefferson,.....	4,731 72
Ontario,.....	67,256 05	Chenango,.....	3,150 00
Clinton,.....	3,500 00	Schoharie,.....	700 00
Orange,.....	1,000 00	Onondaga,.....	12,274 00
Ulster,.....	21,857 00	Genesee,.....	40,084 00
Livingston,.....	54,000 00	Schenectady,.....	3,000 00
Steuben,.....	6,200 00	Washington,.....	3,000 00
Franklin,.....	6,800 00	Wayne,.....	71,347 00
Cayuga,.....	14,724 00	Tioga,.....	11,250 00
Broome,.....	1,000 00	Montgomery,.....	14,866 00
Dutchess,.....	3,800 00	Otsego,.....	4,152 00
Seneca,.....	18,200 00	Herkimer,.....	3,700 00
Sullivan,.....	1,500 00	Kings,.....	4,000 00
Yates,.....	26,550 00	Richmond,.....	1,500 00

On the above amount no interest has been due over six months.

*2d.* The amount of loans on bonds and mortgages not included in loans on capital and other than loans to monied corporations, or to their officers or agents for their use and benefit, was, on the first day of January, 1833, \$1,101,560.02.



The amount loaned of this character in each county of the State, is believed to have been nearly as follows, on the first day of January.

New-York,.....	\$411,932 40	Allegany,.....	\$9,433 00
Albany,.....	34,950 00	Livingston, .....	14,294 00
Kings,.....	5,247 69	Cayuga,.....	42,815 00
Columbia,.....	11,582 22	Herkimer,.....	6,637 00
Ontario,.....	41,226 94	Otsego,.....	4,800 00
Oneida,.....	15,935 25	Seneca,.....	22,225 00
Tompkins,.....	18,300 00	Tioga, .....	1,500 00
Erie, .....	94,050 00	Yates, .....	11,175 00
Monroe,.....	92,580 00	Sullivan, .....	2,000 00
Oswego, .....	19,450 00	Montgomery, ....	2,500 00
Niagara,.....	48,975 00	Wayne,.....	26,928 00
Chautauque,.....	12,050 00	Washington,.....	4,768 00
Jefferson, .....	24,390 00	Orleans, .....	24,850 00
Onondaga,.....	26,160 00	Broome, .....	500 00
Genesee, .....	26,025 00	Lewis, .....	350 00
Clinton,....	570 00	Rensselaer,.....	14,000 00
Orange,.....	3,000 00	Morris, N. J., ...	4,000 00
Ulster,.....	2,320 00	Madison, .....	1,000 00
St. Lawrence,.....	6,700 00	Cattaraugus, .....	1,600 00
Steuben, .....	10,092 52	Cortland, .....	650 00

The interest remaining due on the first day of January, 1833, on the whole amount of bonds and mortgages, whether capital or otherwise, due the company, was \$18,724.62; since reduced to \$13,758.17; of which last sum, \$5,437.50 is due in the city of New-York.

In a few cases the whole, amounting to \$643.06, there has been a failure longer than six months, of payment of interest due on those loans not considered capital, and the company have been obliged to place the bonds and mortgages of the defaulters in the hands of the counsel to the Board for foreclosure.

In making the above loans, satisfactory evidence has been required, that the value of the mortgaged premises, is at least, double the amount of the loan, except in some few instances, where loans have been made on real property in the city and county of New-York, where, on account of its ready sale, and the greater facility of determining the actual value of the property, so great an amount is not often required. It should be remarked too, that in a great number of cases, where especially the property is of a changeable character, a much less sum has been loaned, frequently not over one-third the value.

The payments of interest to the company are semi-annual, on the first days of June and December.

Aware of conducting their system of loaning with the greatest prudence, the trustees appointed one of their own body, a gentleman possessed of their entire confidence, and one whose residence in the western country had made him intimately acquainted with the value of land and property of all kinds, to visit those counties

in which their chief loans have been made to examine the property which the company hold as security, and to have intercourse with those gentlemen through whom their loans have been made, to ascertain their practices in recommending loans, and to urge upon them the attention, prudence and caution which influence the board in their own conduct. Nicholas Devereaux, of Utica, was the gentleman appointed, and having spent between two and three months of the past summer, in performing the duty imposed upon him, he delivered to the board a detailed account of each loan he had examined, and his sentiments and opinions as to the course which the trustees had pursued, and ought to continue to pursue. He also presented a more general report, a copy of which is annexed to the one which the trustees now make.

3. The amount, exclusive of interest of loans on stock securities, on the first day of January, other than loans to or for the use of moneyed corporations, was \$619,549.51. The following table shows the amount loaned on each kind of stock, the number of shares, and the nominal and market value thereof, and the amount payable on demand at the time of the loan, the amount loaned for limited periods less than six months, and the amount loaned for six months or more.

	Amount loaned.	Number of shares.	Nominal value.	Market value.	Loaned on demand.	Loaned for six months and over.
Phoenix fire insurance company,.....	\$15,450 00	397	\$40 7	per cent ds.		
Utica bank,.....	1,432 30	25	60	Above par.		
Bank of America,.....	1,505 00	18	100	12½ advance.		
New-York State marine,.....	13,021 00	405	50	22 discount.		
Mechanics' and Farmers' bank, Albany,.....	26,350 00	1,550	17	Above par.		
Rochester bank,.....	20,000 00	400	50	do		
Jackson insurance company,.....	16,499 00	480	50	22 discount.		
Howard insurance company,.....	9,500 00	180	50	22 advance.		
Mohawk rail-road company,.....	83,550 00	844	100	17½ do		
Phoenix bank,.....	1,200 00	42	25	33 do		
Butchers' and Drover's bank,.....	13,400 00	508	25	13 do		
Ocean insurance company,.....	24,063 00	537	35	42 do		
New-York life insurance and trust company,...	3,600 00	30	100	40 do		
American insurance company, (marine,).....	3,500 00	70	50	18 do		
Mechanics' bank, Newark,.....	4,050 00	134	40	Above par,		
Oswego bank,.....	5,000 00	100	50	do		
National bank,.....	3,500 00	70	50	13 advance.		
Traders' insurance company,.....	775 00	31	25	15 do		
Camden and Amboy rail-road company,...	35,000 00	392	100	40 do		
Onondaga bank,.....	2,000 00	40	50	Above par.		
United States bank,.....	37,000 00	377	100	5½ advance,		
New-Orleans banking company,.....	25,000 00	250	100	19 do		
Bank of Mobile,.....	35,000 00	250	100	12 do		

Leather manufacturers' bank, .....	10,950 00	230	50 10 advance.
Commercial insurance company, .....	5,675 00	70	100 2 discount.
Bank of Monroe, .....	2,500 00	100	25 above par.
Farmers' loan company, .....	17,800 00	366	50 5 advance.
Jefferson insurance company, .....	3,600 00	120	30 9 1 do
Ætna insurance company, .....	5,500 00	119	50 9 do
American fire insurance company, .....	10,664 00	21	235 50 discount.
Equitable insurance company, .....	4,600 00	101	50 2 1 do
Contributionship insurance company, .....	5,000 00	100	50 26 advance.
Brooklyn bank, .....	11,180 00	584	20 12 do
Ohio sixes, .....	3,000 00	3,000	... 21 do
Tradesmen's bank, .....	4,840 00	121	40 14 do
New-York fire insurance company, .....	8,820 00	98	100 2 discount.
New-York gas light company, .....	2,850 00	45	50 46 1 advance.
Pennsylvania 5 per cent, .....	13,000 00	12,500	
Saratoga rail-road company, .....	4,500 00	60	100 1 discount.
Dry-Dock, .....	4,320 00	137	30 27 advance.
State of Alabama 6 per cent, .....	104,855 00	100,000	
Loans on paper, .....	10,000 00		
do do .....	3,500 00		
do do .....	2,000 00		
do do .....	10,000 00		
\$619,549 51			
\$506,154 51			\$113,395 00

Of the above loans on stock, there are none on which the interest has been due more than six months, nor the interest on which has not been paid when due and called for. There are none of course in suit, nor ordered for prosecution, nor are there any where the principal and interest due thereon, exceeded on the first day of January, 1833, the market value of the stocks pledged for the security thereof. The general rule being to loan on stock at 10 or 15 per cent at least below the market value, so to be kept by agreement.

4th. The amount of loans on bonds, bills or notes, with personal securities only, other than loans to or for the use of monied corporations, was on the 1st day of January, 1833, \$800,521.13.

The amount of the last mentioned loans payable on demand, the amount loaned for a less period than six months, and the amount loaned for six months and over, is as follows: Payable on demand, \$28,000; loaned for a less period than six months, \$357,268.40; loaned for six months and over, \$415,252.73. There are none of the said loans on which interest has been due six months, nor any in suit, nor ordered for prosecution, nor are there any under protest.

5th. To the interrogatory, what is the amount due from persons on account, other than loans to or for the use of monied institutions? the trustees beg leave to answer, none. No money has ever been allowed to remain in the hands of the president or secretary, but is deposited before three o'clock each day, in bank; nor of any trustee or agent of the company, nor has any money been loaned but on bonds, mortgages, bills, stocks or other securities, nor without such securities being approved and in the office, or believed to be in the hands of a person authorised to receive them.

6th. The whole amount of interest due to the company, on all its loans, whether on bonds and mortgages, or on the personal securities which have been mentioned, was, on 1st day of January, 1833, \$18,724.63, since reduced to \$13,758.17; of this amount \$643.26 has been due six months without the consent of the board.

7th. No loan has been made to any monied corporation, or to their officers or agents, for the use of such corporation.

8th. The company own, in their own right, stock of the city of Albany, to the amount of \$60,000, for which they have the certificates in the office, bearing an interest of five per cent, one per cent advance having been paid for the same. Its market value is not known, none being in the market. And 100 shares stock of the New-York Life Insurance and Trust Company, purchased out of the surplus funds of the company, par value \$10,000, the market value at an advance of 40 per cent; the last mentioned stock having been purchased at an advance above par value of 24½ per cent. The trustees beg leave to remark as to these 100 shares of the New-York Life Insurance and Trust Company, that it was thought prudent, by the board, to purchase and hold this small number, that they might have in their power to supply, when a vacancy was to be filled, the shares necessary, by the act of incorporation, to constitute a trustee, and when it might happen 50 shares was not to

be had in the market. The trustees have determined, by resolution of the board, not to make any farther purchases for that or any other purpose.

9th. The only real property, which the company own, is the building in which they transact their business, and the lot on which it stands; for which, and its furniture, has been paid by the company, \$42,483.78. The lot is 27 feet on the street, and 116 feet deep, situated in Wall-street, in the first ward of the city of New-York.

10th. The whole amount of money on hand on the 1st day of January, 1833; was \$1,612.50, being the balance lying in the Manhattan bank, at the disposal of the trustees on that day. The Manhattan bank, of the city of New-York, is the bank in which all the deposits of the company are made, and with which all the company's banking business is done. All money drawn from the bank is drawn by checks, signed by the president, and countersigned by the secretary.

11th. Excepting their books, the company have no property of any description whatever, excepting what has already been stated, in answer to the preceding interrogatories, or which will be specified in answer to some one of those which follow.

12th. The company have received no money in trust, to be invested, at the risk and for the benefit of the persons for whom such monies were received, or of other persons designated by the trust. All monies which have hitherto been received in trust, are at the risk of the company, and under their management, unless it may be in the two following cases. 1st. The company, as guardians of two infants in England, have received an assignment of certain United States 5 per cent stock, payable in 1835, amounting to \$7,451.30, which stock remains with the company, unchanged, and while it does so may be considered at the risk of the cestui que trust. 2d. An assignment in trust, for two years, of 1,100 shares of bank stock, at the risk of the assignor.

1st. The amount of the capital stock of the company is \$1,000,000.

The number of stockholders owning the same, on the first day of January, 1833, was 134; of whom the number residing out of the State is believed to have been 14, and the amount of stock held by these, collectively, 1,950 shares. The number residing in the State, other than the trustees, was 92, and the amount of stock held by them 5,386 shares. The number of trustees acting on the 1st day of January, 1833, two vacancies to be filled, was 28, of whom

1	holds	408	shares.	
1	"	305	"	
1	"	131	"	
1	"	70	"	
11	"	100	"	each.
13	"	50	"	"

2d. The amount of monies deposited in trust by order of the court of chancery, and of surrogates, to be invested or kept at the risk of the company, was \$243,163.85.

Of the above sum, the amount deposited in trust for accumulation, was \$26,447.54. The accumulation which has actually accrued on this sum, the first day of January 1833, was \$352.29.

3d. The whole amount of deposits in trust on the first day of January 1833, including that deposited by the chancellor, surrogates and monied corporations, was \$2,475,523.29. For sixty days, \$28,738.30. For five months, \$244,037.15. For a year and over, \$2,202,747.84; and of which \$52,059.64, besides the \$26,447.54 mentioned above, was in trust for accumulation; and the accumulation which had actually accrued on this latter sum, of \$52,059.64, was \$891.09.

4th. The amount of deposits by banks and other monied corporations in trust, was, on the 1st day of January 1833, \$26,350. None of this was in trust for accumulation.

5th. The amount of interest which had accrued become due and payable on the deposits in trust, other than trusts of accumulation, computed up to the 1st day of January 1833, amounted to \$36,453.49.

6th. Nothing has been received by the company, and for which it is liable as guardian of the estates of infants, on the first day of January 1833, exclusive of sums to be accumulated.

The amount received by the company, and for which it was liable as guardian of the estates of infants on the first day of January 1833, after the payment of the amount ordered by the chancellor, was \$11,172.67.

The accumulation of interest on the above amount, on the first day of January 1833, amounted to \$835.33.

When the money received as guardian is deposited with its other funds, at an interest of five per cent, the company being responsible for the deposit, no charge of commission or expenses is made against the fund: when there is a special deposit of stock, the charge would be  $\frac{1}{2}$  per cent for receiving, and  $\frac{1}{2}$  per cent for paying.

7th. The company have never received any funds as receiver, never having been appointed to the performance of that duty.

8th. There has been no ascertained death among the individuals whose lives have been insured by the company, since the commencement of its operations. One individual insured, has died, his policy having expired a few weeks.

9th. The whole amount received for premiums on life insurance, since the commencement of the company's insuring lives, was, on the 1st day of January 1833, \$18,217.67, including interest credited to that fund.

The whole number of insurances has been 183. The number of lives remaining insured by the company, was, on the first day of January 1833, 150, since increased to 159.

The youngest of the lives insured in the office is aged 8, and according to the tables hitherto used by the company, has a right to expect to live 50,  $\frac{1}{4}$  years. The oldest life is 55, and has a right to



expect to live  $17\frac{5}{8}$  years. The amount of premium varies annually with the advancing ages, and cannot be answered, except by reference to the tables. The amount received the last year for insurance of lives, ending the first day of January 1833, was \$9,303.73.

The amount of insurance effected by the parties, and for which the company is responsible in the event of death, is \$454,550.

10th. There was nothing due on the 1st day of January 1833, on annuities from the company.

11th. The amount received for the sale of annuities on the 1st day of January 1833, was \$13,996.78. The number of annuities was seven. The average time of the continuance of their lives, according to the annuity tables used by the company, is  $13\frac{3}{8}$  years. The amount of annuities paid by the company annually, is \$1,930.

The trustees call with pleasure, the attention of the chancellor to the increase of lives insured in their office. The whole number of policies issued since the commencement of the company, to the 1st of January 1833, was 183. There were 65 policies running in June last; and at the present moment there are 159. The inquiries which continue to be made at the office, show how little the objects and benefits of life insurance are understood in this country, while what has already been done, gives the trustees reasonable hope, farther exertions will extend this part of their business.

12th. The amount of all dividends unpaid to the stockholders entitled to the same, on the 1st day of January 1833, was \$1,158.

13th. To the thirteenth interrogatory the trustees beg leave to answer, that of this class of deposits, the company have none.—The trustees have not been unmindful that the interest and convenience of depositors in trust by will, may frequently induce them to this species of deposit; and have, therefore, passed the following resolution for their government in all cases.

*Resolved*, Where the company shall be appointed trustees, either by deed, or last will and testament, and no provision shall be made for their compensation, by the instrument creating the trust, the same commissions shall be charged as are allowed by law to executors and guardians. And where a discretion shall be given to the company, when so appointed trustees to receive themselves the trust money, as a deposite, allowing interest thereon, at a rate not exceeding five per cent, the company, if they shall exercise the discretion so given, will not charge any commission on the payment, either of the principal or interest, of the monies received on deposite.

14th. On the 1st day of January 1833, there were no debts or demands known against the company, outstanding and unpaid; other than have been mentioned in answer to the foregoing interrogatories, either absolutely due, or payable on any contingent event; nor is it known that any are claimed, not admitted by the company.

15th. There had been no bad debt made by the company on the 1st day of January 1833, in any of its operations since the commencement of its business, nor are there any bad debts due to the company, known or believed to be bad, or on which loss is at pre-



sent apprehended; nor is there any debt due to the company, on which interest has been due for more than a year, or for a longer time than may be accounted for by accidental circumstances, want of notice, sickness, absence or death, which in all transactions, interfere with absolute punctuality, excepting in the cases already mentioned.

The company have declared four dividends on the capital stock of the company, one on the 1st day of July, 1831, of 3 per cent; and one on the 3d day of January, 1832, of 3 per cent; and one on the 1st day of July, 1832, of 3 per cent; and one on the 1st day January, 1833, of 3½ per cent.

The names and residences of the trustees are,

William Bard, New-York,	Nathaniel Prime, New-York,
Stephen Van Rensselaer, Albany,	John Mason, do
Isaac Bronson, New-York,	Thomas W. Ludlow, do
James Kent, do	Benjamin F. Butler, Albany,
Edward C. Delavan, Albany,	William B. Lawrence, New-York,
Gulian C. Verplanck, New-York,	Jonathan Goodhue, do
Thomas J. Oakley, do	Samuel Thompson, do
John Jacob Astor, do	Peter Remsen, do
James McBride, do	Isaiah Townsend, Albany,
John Duer, do	Benjamin Knower, do
Walter Bowne, do	John Rathbone, jr. New-York,
Stephen Whitney, do	Erastus Corning, Albany,
Peter Harmony, do	Nicholas Devereaux, Utica,
John G. Coster, do	Thomas Suffern, New-York.

The trustees annex five by-laws, which are the only by-laws which have been passed by the board since the last report.

The board beg leave, in conclusion, to state that the sums loaned on stocks and bills receivable, excepting what it may be necessary to hold, for the purpose of meeting sudden demands, they consider as temporary investments, till the amount can be re-invested on bond and mortgage. During the past year the board have not been obliged to decline, for the want of funds, any loan they considered perfectly safe, and coming within those prudent rules which they have adopted for the better security of the funds deposited with them in trust. In saying this the board do not mean to refer to applications made by citizens of other States, of which they have, with one exception, declined the whole. The board submit the balance sheet laid before them on the 3d January, 1833, a similar balance sheet being presented to them monthly by the officers of the company.

#### Capital,

On bond and mortgage,

In the city, at 6 per cent, . . . . . \$165,498 75

“ country, 6 per cent, . . . . . 74,551 49

“ “ 7 per cent, . . . . . 759,949 76

————— \$1,000,000 00

Amount carried forward, . . . . . \$1,000,000 00

Amount brought forward, . . . . . \$1,000,000 00

<b>Loans,</b>		
On bond and mortgage,		
In the city, at 6 per cent, . . . . .	\$129,205 34	
In the city, 7 per cent, . . . . .	200,826 84	
In the country, 6 per cent, . . . . .	2,500 00	
In the country, 7 per cent, . . . . .	743,027 84	
Bonds, . . . . .	26,000 00	
	<hr/>	1,101,560 02
<b>Bills receivable,</b>		
At 6 per cent, . . . . .	\$164,582 10	
7 per cent, . . . . .	635,939 03	
	<hr/>	800,521 13
<b>Loans on stock,</b>		
Period, at 6 per cent, . . . . .	\$25,000 00	
" 7 per cent, . . . . .	88,395 00	
Demand, 5½ per cent, . . . . .	26,350 00	
" 7 per cent, . . . . .	479,804 51	
	<hr/>	619,549 51
Albany city stock, . . . . .	60,600 00	
New-York Life Insurance stock, . . . . .	12,412 50	
Insurance bond and mortgage account, . . . . .	310 83	
Annuity purchased, . . . . .	1,669 80	
Real estate, . . . . .	42,483 78	
Balance in bank, . . . . .	1,612 50	
	<hr/>	\$3,640,720 07
	<hr/>	
<b>Capital, . . . . .</b>		\$1,000,000 00
<b>Deposit in trust,</b>		
At 3 per cent, . . . . .	\$28,738 30	
4 per cent, . . . . .	244,037 15	
4½ per cent, . . . . .	581,702 18	
5 per cent, . . . . .	1,542,538 48	
	<hr/>	2,397,016 11
<b>Trust accumulation,</b>		
At 4 per cent, . . . . .	\$7,478 66	
4½ per cent, . . . . .	23,615 57	
5 per cent, . . . . .	47,412 95	
	<hr/>	78,507 18
Guardianship account, . . . . .	11,172 67	
Life Insurance, . . . . .	18,679 87	
Annuities granted, . . . . .	13,996 79	
<b>Interest received,</b>		
On bills receivable, . . . . .	\$13,125 96	
" stock loans, . . . . .	1,889 24	
	<hr/>	15,015 20
Unclaimed dividends, . . . . .	1,158 00	
	<hr/>	
Amount carried forward, . . . . .		\$

	Amount brought forward,.....	\$
Surplus fund, .....		70,000 00
Profit and loss, .....		85,000 00
Cash due agents, .....		174 81
		<hr/>
		\$3,640,720 07
		<hr/>

*At a meeting of the Board of Trustees, held January 24th, 1833,*

**PRESENT,**

Wm. Bard, Pres't.  
John G. Coster,  
Tho's. J. Oakley,  
James McBride,  
Tho's. Suffern,  
John Duer,  
Isaac Bronson,

Walter Bowne,  
Stephen Whitney,  
Nathaniel Prime,  
John Mason,  
Tho's. W. Ludlow,  
Jonathan Goodhue,  
Wm. B. Lawrence.

*Resolved,* On motion of Mr. Thomas Suffern, seconded by Mr. John Duer, that the Board, having heard the report to the chancellor, prepared by the president and secretary, approve the same, and direct the president to sign it in the name of the trustees, and transmit it to the chancellor.

*Thursday, the 24th day of January, 1833.*

Extract from the minutes.

E. A. NICOLL, *Sec'y.*

At a meeting of the Trustees of the New-York Life Insurance and Trust Company, held the 3d of April 1832, the following by-laws were added to the by-laws of the company:

No. 1. No loan shall be made by the company, on security of village or country real estate, beyond half the value, as nearly as can with reasonable diligence be ascertained, of the property offered as security.

No. 2. No interest shall be allowed to remain due longer than six months, on any bond and mortgage to the company, without a foreclosure or suit being directed by the president, unless the Board direct a longer delay.

No. 3. The company shall not, under any foreclosure or judgment, become the purchaser of mortgaged property, by bidding beyond the amount that is due to the company, of principal, interest and costs.

No. 4. If the company become the holders of real estate by purchasing under foreclosure or judgment, the company shall sell the same, as soon as principal, interest and costs can be realized.

No. 5. Excepting for the purposes of securing suitable offices and conveniences for the conduct of their business, and for the purpose of securing themselves against loss of money due to them by the way of mortgage or judgment on the property so held, the company shall hold no real-estate whatever, directly or indirectly.

Extract from the minutes.

E. A. NICOLL, *Sec'y.*

## COPY.

*Report of Nicholas Devereux, Esq. to the President of the New-York Life Insurance and Trust Company.*

SIR—

According to a resolution of the Directors of the New-York Life Insurance and Trust Company, passed in June, 1832, (eighteen hundred and thirty-two) authorizing me to examine the loans made by the company, in the different counties in the western, southern and northern parts of the State, I commenced the examination on the fourth June, and examined the loans which had been made in the following counties:—Oneida, Onondaga, Cayuga, Oswego, Jefferson, Seneca, Wayne, Ontario, Yates, Monroe, Orleans, Niagara, Erie, Genesee, Livingston, Tompkins, Tioga and Cortland. The loans in these several counties, may be classified under three different descriptions; that is, loans on improved farms, loans on city and village property, and loans on hydraulic erections.

The loans on improved farms are the most numerous, and by far the greater part of the whole amount loaned by the company, is on this description of security, which loans are predicated on the cash value of the farms, and in no loan which I examined, does the amount exceed one half such value.

From personal observation, I can say that to the farming class of our citizens, these loans have been of great advantage, enabling them to purchase more land, and to make such improvements and erections on their property as to enhance its permanent value. I observed with pleasure that the company's loans were confined as closely as possible to that class of farmers, who, from their habits and character, were likely to make a prudent and profitable use of their money; from whom the regular and punctual payment of interest may be expected; and whose profits, increased by the advance of a larger capital, will insure the final liquidation of their debts.

The great enterprize of our citizens, and the unlimited field for profitable speculation which the State affords, has hitherto created, and still creates, a demand for money, beyond the supply. This is felt so peculiarly in the city of New-York, where money has always found ready employment, that capitalists, finding no difficulty in investing there, and well pleased to have their funds within reach of their personal superintendence, have almost universally declined placing their money in the country, notwithstanding the very abundant security which every county and town in the State affords to such investments. Some few and sagacious capitalists, pursuing to their advantage, a different course, with equal, if not greater security, have disposed of their funds at a higher rate of interest, in the country. But the New-York Life Insurance and Trust Company has been the first, and is still the only company, who have done this in a liberal and extensive scale. It is gratifying, after the extensive examination I have made of their loans through the country, to be able to state to the trustees, my conviction that

no loans of equal extent, could have been made on more solid security either in the city or country; and it is equally gratifying to be able to state, that the means thus afforded by their liberal views, are extending every where the improvement of agriculture, and the best interest of the State.

Improvement is in rapid progress in all the counties I visited, from Onondaga to Erie, a distance of one hundred and fifty miles; the soil is of the first quality for growing wheat; through the whole district population is rapidly increasing; the richness of the soil, and the easy access to market, enable the farmer to reap such an abundant reward for his toil, that every where in this extensive district, the evidence is apparent of general prosperity, in the erection of substantial buildings, the high state of agricultural improvement, the establishment of extensive flouring mills and manufactories, the growth of villages and towns, and in the support given in every quarter to schools, academies, colleges, and literary institutions. This state of things, which in a greater or less degree extends over the whole State, is calculated to give the trustees additional confidence; for if, in the actual state of things, the loans of the company are, as I believe them to be, secure, the advancing improvements of the country, and its prosperity, must add daily to that security.

The loans on city or village property in this district of country, are made to an amount not exceeding  $\frac{1}{3}$  (one third) of the cash value of the property, including the erections. Loans of this description are generally confined to business locations, and a policy of insurance on the property is assigned to the company, which, together with the bond of the borrower, makes this description of loan secure.

The different villages and cities in the western country are improving in proportion to the rapidity and permanency of improvements in the surrounding country. The mechanical, manufacturing and mercantile business of these places, enables farmers to dispose of their surplus produce; and mutual benefits produce a unity of interest, which add to the great business of the country. The amount loaned on hydraulic establishments is small, and generally on flouring mills,

The water power, location and erections, form the criterion by which to judge of the value of the property. During the examination of these latter loans, that is, those on village property, mills, &c. I considered it prudent to recommend to the trustees to call in a part of a small number of them; not that I considered them unsafe or insecure, but I came to the conclusion, after examination, that the security did not come within the rule of valuation. That is, one-third the value of the property. For a more particular description of the individual loans in each county which I examined personally, and those which I did not examine, but of which I had satisfactory information, I refer the directors to my remarks attached to each loan, in a particular account of them, as furnished me by the company, and also to my remarks on the quality of the land in each county. As one of the directors of the Trust Company, I feel great pleasure in knowledge of the fact, that between

those with whom we have had business transactions and the company, mutual confidence and good feeling exist, founded on the fair and honorable course pursued in transacting our business, and that such has been the conduct of the company, and those gentlemen through whom the business has been transacted, that we possess the character in the community, which a fair, honorable and correct course will always secure.

(Signed)

NICHOLAS DEVEREAUX.

November 10, 1832.

CITY AND COUNTY OF NEW-YORK, ss:

William Bard, president of the New-York Life Insurance and Trust Company, and Edward H. Nicoll, secretary of the same, being duly sworn, depose and say, that the above answer to the chancellor's order of the 19th November 1831, is, to the best of their knowledge and belief, true; and that the resolution annexed is an extract from the proceedings of the trustees, at a meeting held on Thursday the 24th January 1832, and that the by-laws annexed, is a true copy of all by-laws passed by the trustees since their last report to the chancellor, and that the annexed report is a true copy of the report of Nicholas Devereaux, to the board of trustees.

(Signed)

WM. BARD, *Pres't.*

(Signed)

EDW'D. A. NICOLL.

Sworn to this 29th day of

January 1833, before me,

D. HOBART, *Commissioner of Deeds.*

*Recorded and filed, January 31st, 1833,*



**No. 210.**

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**IN ASSEMBLY,**

**February 26, 1833.**

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**COMMUNICATION**

**From the Secretary of State, transmitting the Annual Report of the Directors of the New-York Institution for the Instruction of Deaf and Dumb, for the year 1832.**

**STATE OF NEW-YORK, }  
SECRETARY'S OFFICE, }**

*February 27, 1833.*

The Secretary of State has the honor to present to the Legislature the Annual Report of the Directors of the New-York Institution for the Instruction of Deaf and Dumb, for the year 1832, which has been transmitted to him for that purpose.

Having but recently been appointed to the office of Secretary of State, it has not yet been in his power, consistently with a proper attention to more urgent duties, to visit this institution and comply with the requirements of title 3, chapter 15, part 1, of the Revised Statutes. He, therefore, takes the liberty of referring the Legislature, for such information as may not be contained in the accompanying report, to the last annual report of his predecessor, Senate Documents, No. 106, for the year 1832.

Respectfully submitted,

**JOHN A. DIX.**

*To the Speaker of the Assembly.*





## FOURTEENTH ANNUAL REPORT.

*Of the Directors of the New-York Institution for the Instruction of the Deaf and Dumb, to the Legislature of the State of New-York, for the year 1832.*

The directors of the New-York Institution for the Instruction of the Deaf and Dumb, are permitted, under the gracious smiles of a kind Providence, to present to the Legislature their fourteenth annual report, embracing a record of their transactions for the year eighteen hundred and thirty-two.

By referring to the treasurer's account, which is hereunto annexed, it will be seen, that the income of the society, from all sources, during this period, amounts to fifteen thousand, seven hundred and fifty-two dollars and fifty-two cents, falling short of the amount received in 1831 by fourteen hundred and fifty dollars and seventy-seven cents. It will be perceived, that this deficiency is wholly in that branch of the revenue derived from the sales of lottery licenses in this city; while the aggregate receipts from those pupils who sustain the expense of their own board and tuition, are considerably increased.

For reasons which were stated in their last report, the excess of disbursements over their income, during the preceding year, was five hundred and forty-seven dollars and eighty-nine cents. This balance has since been paid, and two thousand dollars have been applied to the reduction of the debt incurred for the erection of the building; leaving in the hands of the treasurer, on the thirty-first day of December, one thousand, one hundred and forty-five dollars and twenty-nine cents.

The drafts made upon the treasury for current expenses amount to twelve thousand and eighty-eight dollars and thirty-four cents; and if the proceeds of the place, which have been collected and paid over to the treasurer, are deducted, this sum will be reduced to eleven thousand, five hundred and seventy-two dollars and twenty-three cents.

A detailed account of the management of the concerns of the institution, was given in the last report. The plan of operations

therein submitted, and which was then in a course of experiment, has been found to meet most fully the wants of the institution.

During the past year, the general health of the pupils has been unusually good. Upon the first appearance of cholera in the city, the anxiety of parents in the interior of the State was intense; and, partaking of the general panic which seized our own citizens, and induced such multitudes to fly in all directions from the dreaded pestilence, they, in some instances, removed their children from the Asylum. Desirous of allaying this anxiety, and of doing all in their power for the safety of their interesting charge, the directors caused a circular to be addressed to the Special Medical Council, and to other physicians of the first talents and professional ability, stating the facts with regard to the location of the building, and soliciting their opinion whether any causes existed, connected with its situation, which might have a tendency to invite the disease; and whether it would be judicious to remove our pupils to some place which might be deemed less obnoxious to its attacks. The concurrent testimony of these gentlemen confirmed the views previously taken by the Board, of the inexpediency of adopting any other measures, than those which a wise precaution would suggest, to meet the anticipated evil. And we desire to record the fact, with devout gratitude to Him, at whose bidding diseases come and go, that while many were cut down on the right hand and on the left, the destroying angel was not permitted to enter the Asylum, and no case of cholera occurred among the pupils.

Amid general prosperity, and for the most part the enjoyment of individual health, it becomes their painful duty to announce the death of their lamented associate, John Slidell, who was one of the founders of the institution, and its undeviating friend. His mind was ever active in devising measures to affect its enlargement, in order that its power to afford relief might be commensurate with the wants of that portion of the community for whose benefit it was designed; and it is hoped that his devoted example will exert a happy influence upon those who are now, and who may hereafter be entrusted with the management of its affairs.

In the mechanical department, the number of occupations submitted to the choice of the pupils or their friends, has been increased by adding that of cabinet-making, and the several branches are so

conducted as nearly to sustain themselves. All the occupations, gardening, tailoring, shoe-making and cabinet-making, are under the direction of skillful workmen of unexceptionable character. The time which is daily spent in the acquisition of a trade, is about four and a half hours. The benefits resulting from manual labor are immediate as well as prospective. It gives vigor to the constitution, elasticity to the frame, and promotes cheerfulness and good feeling, while it holds out the certain prospect of future support. Experience has fully demonstrated the fact, that these advantages, and many more, are realized under this system, which, at the same time, has proved an auxiliary to the more rapid development of intellect.

The actual number of pupils returned to the last Legislature was eighty-seven. Two who were admitted, but who had not arrived at the date of the last report, increased the list to eighty-nine. Fifteen have been admitted during the past year, and the same number dismissed; making the whole number resident in the Asylum on the 31st day of December, 1832, eighty-seven.

In the month of November, three unexpected vacancies occurred in the list of State pupils, in consequence of erroneous views of parental duty. In each of these cases, the removal took place two years before the expiration of the period provided for by law; but the consideration of pecuniary advantage, as the avails of their labor, outweighed every argument which could be urged in favor of their remaining. But these are not the only instances of this kind that have occurred, and no allusion would now be made to them, if the evil, reasoning from the past to the future, were not likely to prove a serious one; but strange as it may seem, there are some who calculate on the sordid principles of loss and gain, how much they have to sacrifice in giving up the emoluments of their children's labor, during the time that is to be spent in acquiring the benefits and the solace of a useful education; and who, placing a higher estimate upon the products of their hands, than upon the acquisitions of their minds, actually deprive them of one or two years' instruction, to which they are entitled by the bounty of the State, and which, but for parental avarice, they would enjoy. As a consequence, they leave the Asylum half educated. Their attainments are neither creditable to themselves, to the State, nor to the Institution. They can derive no pleasure from the perusal of books, are unable, except on a very limited scale,

to hold intercourse with the world around them, and their knowledge of language is insufficient to aid their future efforts for improvement. And yet, with this small amount of knowledge, they go out and mingle in society as specimens of what can be effected in the education of deaf mutes. And hence the general impression, that these children of misfortune cannot be brought to think, and reason, and use language as a medium of thought and intercourse; but must grope their way through life, with only a few glimmerings of intellectual light, destined, from the very nature of their condition, never to behold the brightness of a full-orbed sun. They occupy, for a short time, a place, to the exclusion of those who might otherwise appreciate, and diligently improve their privileges, and leave it, perhaps, at a season the most inconvenient to fill the vacancy. Enlightened public opinion, and the influence which can now be exerted by the Superintendent of Common Schools, in conjunction with the efforts of the directors, are confidently relied upon to provide the appropriate remedy.

The law passed on the 23d of April, 1832, requiring the overseers of the poor in each town to furnish the Superintendent of Common Schools with a list of the deaf and dumb persons in their respective towns, in order that he may select, as State pupils, such as are properly embraced within the provisions of the existing laws, and make such regulations in relation to the admission of pupils at stated periods, as will remove the inconvenience of permitting pupils of the same class to enter the school at different periods, has not yet been carried into effect; owing to the time necessary for the Secretary of State to prepare instructions to the overseers, to print and distribute the laws prescribing the duties of these officers. At his suggestion, therefore, the class which entered in the month of October, was formed from the list of applications made to the principal of the Institution.

It was stated in the last report, that the system of government and discipline, embracing a supervision of the pupils, during their hours of relaxation and labor, as well as those of study, was incomplete in some of its details. The deficiencies have since been supplied, and, during no portion of the twenty-four hours are the pupils exempted from its operation. The Board would embrace the present opportunity to express their conviction of its importance. Of all visible means for promoting the practice of morality, and encouraging a correct and manly deportment among youth, the

presence of a teacher, who is at once loved and respected by his charge, is, without doubt, the most efficacious. Considered merely as a means of preventing the formation of rude, or vicious habits; of restraining the turbulence of passion, or of providing against whatever may excite it; of repressing conversation on trifling, or worse than trifling topics; of removing, in short, all temptations to grossness or violence, the importance of constant supervision cannot be over-estimated. In comparison with this, all lessons in morality, however frequently and feelingly inculcated; all laws, however rigid in their enactments, or severe in their penalties; all arguments addressed to the interest or the understanding; all appeals to the conscience or the heart, are alike futile and alike unproductive. Results, which authority or persuasion, promises or threats, admonition or exhortation, would fail to accomplish, are the natural and certain consequences of the teacher's presence. If any have come to the Asylum with habits of rudeness, indolence, or vice already formed, here is an irresistible influence, constantly exerted, beneath which, those habits must wither away and perish. And if any have come from under the ever-watchful eyes of anxious parents, who have thus far trained them up in the practice of virtue, around these too, is thrown a wall of defence against contamination, which shall preserve them safe, until we restore them to their friends, enlightened in intellect, and strengthened, as we hope, in every good purpose. And if it be desirable to *correct* evil habits, how much more so, to prevent their formation. If it be an object, worthy of our most anxious efforts, to guide the wanderer from virtue, back again to the narrow path, which he has forsaken, how much more, to give firmness to the step, which has never deviated, to convince him, who has always trod in wisdom's ways, that they are ways of pleasantness, and lead him to follow from choice, the course, which he has hitherto pursued from necessity. Since the adoption of this system, the anticipated benefits to the pupils have been strikingly manifested. Kindness and contentment prevail among them, and all the moral virtues are practised, which characterize a cheerful and happy community.

Evidence has been furnished the Board of their intellectual, as well as moral improvement; and a few specimens of uncorrected, original compositions are appended to this report, that the Legislature may have the means of judging of this for themselves.

The directors are happy to perceive that the interest which was awakened in favor of the institution when the undertaking was new, is still cherished by their fellow-citizens. In illustration of this remark, they would instance the recent examination of the pupils at the City Hotel. The room in which it was held, although one of the most spacious in the city, could not contain all who desired admission, and hundreds were obliged to retire without witnessing the performances. The assembly showed substantial proof of their approbation by subscribing five hundred dollars in aid of the funds. Urgent calls were made upon the directors through the press to repeat the examination, but the duties of the principal rendering his absence from the city unavoidable, prevented their otherwise cheerful compliance with the public wish.

Important alterations have been made in the department of instruction by the voluntary relinquishment of the situations held by some of the instructors, and the accession of others to their places. Mr. Loofborrow and Miss Stansbury have resigned their places since the date of the last report. Mr. Seward, whose acquaintance with the nature of the employment would not admit at the commencement of his engagement of his deciding the question of permanent continuance, felt constrained, from a sense of duty and the importunity of friends, to retire from it, with a view of entering into a different field of labor.

From a careful examination into the best mode of conducting the several departments of the institution, the board became fully persuaded that its interests would be essentially promoted by releasing the principal from the daily instruction of a class. To him are committed the general charge and oversight of the whole institution, the guarding of its expenditures, conducting its correspondence, attending to the calls and inquiries of visitors, seeing that the plan of instruction is duly pursued and their duties attended to by the other teachers, marking the progress of the several pupils in the school, and various other details of active employment, sufficient to occupy his whole time. It was evident that the confinement of the principal to a class, inconveniently interfered with all these duties, and rendered the performance of some of them almost impracticable. The board were therefore anxious for the release of the principal from any particular department of tuition, in order that by occasional visits to all the classes he might consult with, and advise the several teachers, personally inspect the department and progress of



the pupils, and by his influence contribute to that good order and discipline, the maintenance of which is so essential to the respectability of the institution and the moral and intellectual advancement of the interesting objects of its care.

It is a subject of great satisfaction to the Board, that they have been providentially favored, almost beyond their expectations, in engaging all the assistance required in the department of instruction. Mr. David E. Bartlet, Mr. F. A. P. Barnard, Mr. Samuel R. Brown, alumni of Yale College, the first two, from the American Asylum at Hartford, and Mr. J. Addison Cary, an alumnus of Amherst College, have been employed, with the hope and expectation, that they will devote themselves permanently to the duties of instructors of deaf mutes. The employment of these gentlemen, in addition to the services of Mr. Vaysse, the circumstances of whose connection with the Institution, were given at length in former reports, have so increased the facilities for communicating instruction, that each of the classes is now under the charge of an excellent teacher, and, with the careful supervision of the principal, will enjoy every advantage, that any Institution for the instruction of the deaf and dumb, in this country, is able to afford.

Such is the general condition of the Asylum, and the arrangement of the details of labor, that the same care and attention are bestowed upon the physical wants of the pupils, that they would be likely to receive in the bosom of their own families. This object having been secured, the directors are happy to state, from a plan which has been submitted to them, that the instructors are making very laudable efforts to raise the standard of attainment, and to store the minds of their pupils with knowledge of an useful and practical nature, in addition to that which is embraced in a course of common education.

At no period in the history of our country have efforts been made, corresponding with the present, for the general diffusion of knowledge. To this end the press is subservient; seminaries, for the education of teachers, are established; lectures are delivered; and exertions are made, both by individuals and associations, to advance the cause of popular education. The mode of instructing deaf mutes was introduced into the United States under circumstances the most favorable for success; but, while much has been done, practically, for the benefit of this unfortunate portion of the



human family, much, very much remains still to be accomplished. With the single exception of the article in the Encyclopedia Americana, no paper on this subject at once copious and valuable, has yet appeared in this country. There has been too little of plan in the methods, hitherto pursued, of teaching language, and, although sufficient time has elapsed, the results of experience are still floating in the air, having never been embodied in a well defined system. Each instructor has been obliged to depend too far upon his own unassisted judgment. No books have been prepared of a suitable character to be used, either in the elementary, or more advanced classes; and no attempt has been made to form a library in order to create a thirst for reading, or to minister to its gratification, when once awakened. Nothing, literally nothing has been done to illustrate truths in physics, chemistry and natural history, or to explain, in any way, the principles of science, as applied to the arts. While improvements are multiplying, almost in a geometrical ratio, in all the departments of knowledge, to aid those possessing the gifts of utterance and of hearing, can no avenues be opened to render these gushing fountains accessible to the deaf and dumb? Shall we be content to pursue the same trodden path, and see our pupils leave us, one after another, unenlightened, except within the pale of simple elementary truths? Our convictions of duty urge us forward. We feel an obligation to spare no pains to supply existing deficiencies, to contribute our share to the common stock of improvement, and to elevate this branch of education to the highest degree of practical usefulness.

One step, and that a very material one, towards promoting the intellectual culture of the deaf and dumb, in accordance with these views, seems to have been made in the plan already alluded to. Not to enter minutely into its details, it will be sufficient to say, that it proposes, without interfering with the ordinary exercises of the school-room, or with the daily mechanical employments of the pupils, very greatly to enlarge the amount of information communicated, and, by presenting it in a systematic form, to secure as effectually as possible, its permanent retention in the mind. By this means, and by encouraging the perusal of books, for which facilities will be afforded, the time, which is now least profitably employed, will be turned to the most valuable account; and, as the knowledge acquired by the pupil will be upon subjects which are of necessity excluded from the school-room, where such things fully occupy the time as are absolutely indispensable in his educa-

cation, much that has hitherto been unattainable will be placed within his reach. His happiness will be promoted by the acquisition of that which is useful; his views will be expanded as he contemplates the extent of the intellectual field; while the delight, with which he will hail the development of so much that is new or surprising, can not but stimulate him to more vigorous efforts in the prosecution of his daily task. The study of language possesses, for the young mind, very few attractions. This truth any one will acknowledge, who casts a thought back to his own school-boy days. It can not be said that the deaf and dumb do not, in general, put forth very commendable and persevering efforts in its pursuit. The evil of ignorance is too immense, and too palpable, not to force them to exertion. Yet, cut off as they have been from childhood, from the knowledge even of what is to be known, the darkness of their intellects renders them almost insensible to one of the highest motives which can influence the human mind to diligence, the desire to be informed. This desire must be proportioned to the estimate made, of how much is unknown. Knowledge is a hidden gem. He only will seek it with eagerness, who is acquainted with its nature, and can therefore rightly appreciate its value. There is, then, a mode of stirring up the energies of the deaf and dumb, and stimulating them to activity, which has never, hitherto, been systematically employed. To vary the monotony of the school room exercises, the perplexing detail of rules and exceptions, of inflections and anomalies, of idiomatic phrases, and the endless caprices of language, no attempt has been made to introduce more entertaining subjects at stated times, by way of illustrating the value of knowledge, and holding out an earnest of the reward, which is in store for the diligent. No substantial proof has been afforded, that language is not merely to be sought for its own sake, but as a master key, by which to unlock treasures of limitless value. Indeed, when we consider how little has been done to satisfy the longings of the vacant mind, to rouse apathy to effort, and to encourage industry in the prosecution of a laborious task; when we consider how little encouragement has been held out to cheer the mute onward in his toilsome undertaking, or even to teach him the value of that which he is immediately acquiring, we cannot but wonder that he should so contentedly persevere; we cannot but pity him, that his deliverance from intellectual thralldom is by a process so tedious, and so disheartening. The plan which it is proposed to introduce into the institution, will, we trust, do much to render this process more pleasing; and the

higher degree of alacrity with which it is anticipated that pupils will engage in the exercises of the school-room, when its effects shall begin to be visible, is not among the smallest inducements which have led to its adoption. That its execution will impose upon the principal and his associates an amount of labor, very essentially greater than has hitherto been required of them, is to be expected. With them, however, such a consideration is of no weight, when placed in the scale with the anticipated advantages. We have reason to believe that their determination has not been hastily formed, but that in view of all the circumstances, they have been led to it by a conviction of duty.

The measures now in prospect, and others not yet matured, which must unquestionably succeed them, are such as to require extensive information, and no ordinary devotion to the task of doing good, in those who carry them into execution. And here the Board cannot but advert to one, among the many errors, which have hitherto prevailed, with respect to the education of the deaf and dumb, from which that unfortunate portion of our fellow beings have suffered, to an extent which can only be appreciated by those, who, like this Board, have been brought into immediate connection with them. This is to suppose, that to convey information to the minds of mutes, and to initiate them into the mysteries of language, is not an undertaking which requires either talents or study for its successful execution; or which merits the undivided attention of men of more than common education. This error, if not entirely confined to our own country, has been, unfortunately, more prevalent here than abroad. To trace its causes, is a matter of no great difficulty. All the knowledge which people in general possess, with respect to the instruction of the deaf and dumb, is derived from public exhibitions, or from the hasty observations of individuals, carelessly made in the course of a brief visit at the institution. The exercises of the school-room are observed to consist of language in its simplest forms, and the observer instantly compares that which is before his eyes with what may be seen in the common schools for speaking children, with which our country abounds. It does not occur to him, that, what he witnesses is only a minute portion of a great whole, to understand which, even his own intellectual powers might find themselves tasked; and that, while the individual exercises before him may resemble those of common schools, there is no more similarity between the two seminaries

compared, than between a dancing academy and a school for mathematics. What is it that the instructor of deaf mutes proposes to accomplish? In the first place, to teach a language. And to whom? Not to those who have already the idea of such an artificial structure, and have, therefore, a foundation ready laid, upon which he may build; but to persons, who must first be taught to know what language is. We all know the difficulty of acquiring an unknown tongue. We all know the perplexities which obstruct our progress in the endeavor to acquaint themselves with the Latin or the German. And how few among those, who can *read* these and other languages with facility, can write or speak either. Yet we have, in the very beginning, an instrument to aid us, which gives us an advantage over the deaf and dumb, like that which the mechanical powers afford above mere animal strength, directly exerted. This instrument is grammar—for grammar is not peculiar to any individual language, but extends itself in all its essential principles, over the whole field of artificial communication. In acquiring the French or the German, we have only to substitute new names and new inflections, for others already known. We construct a machine of new materials, with certain trivial modifications, upon a model before our eyes. But the deaf and dumb have yet to learn the principles, on which the machine was originally constructed. They have not merely to translate, but to invent. Are not talents, are not ingenuity and mental discipline necessary in the man, whose task it is to lead them onward in this process of invention? Few persons understand how artificial, how intricate, and, in fact, how anomalous are the combinations of words upon their lips every hour of the day. Their knowledge of language has been imperceptibly acquired, and they do not reflect that this language is a structure, which has been growing more complicated since time began. No person, in fact, can be conversant with the deaf and dumb, for any space of time, without becoming convinced, that to teach them even the elements of language, requires a greater practical knowledge of the workings of the human mind, a more philosophical acquaintance with the great medium of communication, and a more thorough intellectual discipline, on the part of the instructor, than is required in any other branch of education.

There remains one subject, which, though it has been repeatedly alluded to in former reports, the Board feel themselves bound

once more, distinctly, to present to the consideration of the Legislature. The inadequacy of the present public provision to meet the wants of indigent deaf mutes, within the limits of the State, is palpable to the slightest inspection of the statistics of our population. The returns of the last census show the number of the deaf and dumb, in 1830, to have been eight hundred and eighty-three. This number must now exceed nine hundred, and it cannot but increase with the general increase of population. The observation of centuries has limited the successive generations of men, each to thirty years. One-thirtieth portion of the human race arrives, therefore, annually, at that period of life when education should commence. If five years be set apart for this purpose, then it is evident, that the number constantly under instruction should bear to the whole population the ratio of one to six. Applying this result to the present case, we perceive that, supposing our population stationary, provision should exist for the education of one hundred and fifty deaf mutes. Five-sixths of these, at least, stand in need of legislative aid. Yet at present, the total number of those who receive the bounty of the State, amounts only to eighty.

It is not a time to discuss the policy of educating the deaf and dumb. That question has long since been set at rest, and the sense of the Legislature, with respect to it, may best be inferred from their own acts. They have made provision for this object. It cannot be supposed, that they intended that provision to be partial or inadequate. It cannot be believed that they esteem this, or any other benevolent object, worthy of being attempted, but not of being effectually accomplished. Such a supposition is neither accordant with reason, nor with humanity. Were there any difficulty in the way, were this some stupendous undertaking to which the resources of the State were unequal, or were there even danger of wasteful expenditure, arising from liberal appropriations, then, indeed, the present state of things might more easily be accounted for. But nothing of this is true. It is but a pittance, which this great and flourishing State is supplicated to bestow upon the most unfortunate of her children. And even were provision made by statute for a greater number than could possibly apply for its benefits, it would still be impossible to draw from the treasury a greater amount than should be necessary to meet the wants of that particular class, for which it was intended. There seems to be an inconsistency, there certainly is injustice, in extending the public bounty to a part, where all are equally deserving;

in acknowledging only the claims of a few, where those of the whole rest upon the same foundation.

Impressed with a sense of the correctness of these views, and of the unhappy condition of numbers in this wealthy State, who, for want of public assistance, are living and dying in ignorance and wretchedness, this Board will feel it their duty, at no distant day, to present this subject to the Legislature in the form of a memorial. They cannot entertain a doubt that it will meet, from the liberality of that body, the attention which they are convinced it deserves.

With a firm conviction that large institutions possess decided advantages over small ones, for accomplishing all the great ends of their establishment; in the greater ratio of benefits conferred, compared with their expenses; in the means, which they possess; for maintaining a supervision over the morals and conduct of their pupils; for their instruction in the mechanical arts; for their better classification; and for their intellectual and religious improvement; and under a belief too, that the means for securing these desirable objects, are in the possession of this institution, the Board commissioned the principal to visit Canajoharie, and propose to the directors of the Central Asylum an union of the two institutions at New-York. Although the arguments in favor of this plan appear to us to be unanswerable, and the terms offered the most liberal that could be expected, under any circumstances, the directors of that Asylum, the Board regret to say, declined acceding to such a proposal. The offer was not made with the intention of interfering with the rights vested in the Central Asylum, nor with a view of building up the interests of this institution, at the expense of theirs, but from the sole consideration of advancing the best good of the deaf and dumb themselves. The question as to the expediency and duty of uniting the two institutions, and enlarging the facilities of one, so as to render it adequate to the wants of the whole body of deaf mutes in the State, this Board feel fully prepared to sustain on any suitable occasion.

It is with no ordinary pleasure that the directors contemplate the present prosperous condition of the institution entrusted to their care. In this pleasure, they doubt not that the Legislature, under whose patronage it has flourished, will partake with them. To do good is ever its own reward. Happiness, like the mysterious power of the loadstone, is increased in proportion as it is im-

parted. And the satisfaction with which the benevolent mind looks back upon the benefits which it has been instrumental in conferring upon others, affords a striking verification of the language of the inspired Preacher: "Cast thy bread upon the waters; for thou shalt find it after many days."

By order of the Board of Directors.

JAMES MILNOR, *President,*

H. P. PEET, *Secretary.*



## DOCUMENTS.

### New-York Institution for the Instruction of the Deaf and Dumb, in account current with the treasurer, from January 18, 1832, to January 1, 1833.

#### RECEIPTS IN 1832.

From Comptroller for State pupils,.....	\$6,920 22
Mayor of New-York for lottery licenses .....	3,625 00
Regents of the University.....	503 47
Supervisors of New-York, by city comptroller,	1,430 00
Life subscribers and donations,.....	489 50
Female Association,.....	374 68
Pay and part pay pupils,.....	1,587 33
Sales of shoe shop,.....	203 37
Sales of tailor's shop and clothing,.....	320 17
Sales of garden and place,.....	292 78
Sales of elementary exercises,.....	6 00
	<hr/>
	\$15,752 52
	<hr/>

#### EXPENDITURES IN 1832.

Balance due the treasurer, January 18, 1832,.....	\$547 89
Superintendence and tuition, steward, gardener, tailor, shoemaker, and servants,.....	4,930 41
Interest on debt,.....	486 60
Ground rent to corporation, and rent of bush lot,....	200 00
Provisions and groceries,.....	2,841 22
Fuel and light,.....	813 68
Dry goods for clothing for pupils, and cash advanced pupils, .....	497 16
Leather and findings for shoe shop,.....	436 49
Insurance against fire,.....	82 20
Medicine and professional attendance,.....	183 03
Alterations and repairs at the Asylum, ditching, &c.,.	411 39
Books, stationary, and maps,.....	126 51
Furniture, beds, bedding, and crockery, &c.,.....	206 44
Garden for seeds, manure, &c.,.....	163 52
Stable account, and one pair oxen and plough, .....	331 92
Thos. Arden, on account of principal of bond to him, (\$8,000),.....	2,000 00
	<hr/>

Carried forward,.....



Brought forward,.....	\$	
Postage, printing Annual Report, expenses for lottery information, for carriage hire, &c.,.....	348	77
Balance carried down to new account,.....	1,145	29
	<hr/>	<hr/>
	\$15,752	52
	<hr/>	<hr/>

1833. Jan. 1, Balance brought down, in treasurer's  
hands,..... \$1,145 29

ROB. C. CORNELL,  
JAS. LOVETT,  
ROB. D. WEEKS,  
B. L. WOOLLEY,

*Committee of Finance.*

NEW-YORK, January 1, 1833.

## List of pupils in the New-York Institution for the Instruction of the Deaf and Dumb, December 31, 1832.

### State Pupils.

#### *First District*

Ellen Martin,  
James McGowan,  
Joseph Rogers,  
Clarissa Holland,  
Franklin Howell,  
Jeremiah W. Conklin,  
Nathan M. Totten.

#### *Second District.*

John Larmer,  
Charles Westcott,  
Rachel Johnson,  
Abel B. Baker,  
Mary M. Crain,  
David Bise,  
Maria Eighmy.

#### *Third District.*

William P. Field,  
Betsey Martin,  
Gilbert C. W. Gamage,  
Sumner Frizzel,  
Eliza Stewart,  
William Rossman,  
Peter Siver.

#### *Fourth District.*

Jonathan Vanscoy,  
Julia Ann Hoffman,  
Ira Lewis,  
Robert Cummings,  
William Phinney,  
George Steele,  
Joel J. Strong.

#### *Fifth District.*

Daniel Johnson,  
Ann Reeves,  
Isaac Bragg,  
John H. Atkins,  
Eliza Ann Cornell,  
Timothy Pickering,  
Lydia A. Atwater.

#### *Sixth District.*

Manica Richards,  
Anson F. Paige,  
Jason Vanscoy,  
Lovinus B. Taylor,  
William P. Cole,  
Mary Ann Dickinson,  
Juliette Dickinson.

**Seventh District.**

Jane Vanscoy,  
 Rosetta Crooker,  
 Lucien D. Wood,  
 Harriet Armstrong,  
 Mary Keith,  
 Mary Lamperson,

**Eighth District.**

Ransom Driscall,  
 Martin Crandell,  
 Louisa A. Moore,  
 Ursula Wilson,  
 Thomas Wilson,  
 Ira McManners,  
 Jane Milhench.

### **Pupils supported by the Supervisors of the county of New-York.**

John Harwood,  
 George W. Swan,  
 John Shotwell,  
 Timothy D. Townsend,  
 Caroline Bennett,  
 Francis McCommisky,

Harriet C. Gamage,  
 Louisa Young,  
 Mary Trainer,  
 Sarah Elizabeth Wayland,  
 Mary Allen Wayland.

### **Pupils supported by the N. Y. Female Association.**

James Noe,  
 James Oliver Clark,

Daniel Lafferty,  
 Emily Vandell.

### **Pay and Part Pay Pupils.**

Josiah Jones,  
 John Toohey,  
 Mary Dryer,  
 Elizabeth Webster,  
 Hannah Webster,  
 Elizabeth Harrison,  
 Ann Maria Mabbett,

Thomas Bigger,  
 Alicia Wilson,  
 Isabella Wilson,  
 De Witt B. Holden,  
 Samuel W. Speir,  
 Margaret Tice,  
 Emeline Beckwith.

### **Pupils supported by the Institution.**

Elizabeth Lafferty,  
 Robert Leader,

Lavinia M. Jewell.

Actual number, December 31, 1831, .....	87
Dismissed in 1832, .....	15
	<hr/>
	72
Admitted in 1832, .....	15
	<hr/>
Remaining in the Asylum, December 31, 1832, .....	87
	<hr/>

## Donations and Subscriptions received in 1832.

### DONATIONS.

From two gentlemen,.....	\$2 00	
“ I. T. Merwin, .....	5 00	
“ Mr. Scott, Valparaiso,.....	5 00	
“ Mrs. Noble, New-York,.....	1 00	
“ A stranger, .....	50	
“ Henry H. Leeds, .....	10 00	
“ Cash, .....	54 00	
	<hr/>	\$77 50

### ANNUAL SUBSCRIBERS.

“ H. Bicker,.....	\$3 00	
“ Charles Van Wyck,.....	3 00	
“ Jas. N. Balistier, .....	3 00	
“ Cornelius Oakley,.....	5 00	
“ Charles Wardell,.....	5 00	
“ I. Auchincloss, .....	3 00	
	<hr/>	22 00

### LIFE SUBSCRIBERS.

“ B. L. Woolley,.....	\$30 00	
“ R. C. Cornell,.....	30 00	
“ H. P. Peet, .....	30 00	
“ John Oothout,.....	30 00	
“ A. Greele,.....	30 00	
“ Samuel Downer,.....	30 00	
“ Charles Wayland, .....	30 00	
“ Lennox,.....	30 00	
“ Thos. H. Faile,.....	30 00	
“ William M. Halstead, .....	30 00	
“ Silas Brown,.....	30 00	
“ Moses Allen,.....	30 00	
“ Robt. D. Weeks, .....	30 00	
	<hr/>	390 00
		<hr/>
		\$489 50
		<hr/>

### Other Donations.

Editors of the New-York Courier & Enquirer, their paper.

“ New-York Commercial Advertiser, do  
 “ “ Atlas, do  
 “ “ Weekly Messenger, do

By S. W. Benedict,

3 pieces cotton sheeting.

3 do calico.

1 do cotton check.

1 do Canton flannel.

1 pr. woollen hose.

From Leon Vaysse, 1 spy-glass.

## Specimens of uncorrected original compositions.

*By a young man 17 years of age.*

### THE INDIAN WOMEN AND THE BOYS.

I stayed in my father's house. He went to the small town of Nelson Madison Co. N Y. He worked in his friend's field which is near the town. I disliked myself to stay in my father's house, but I preferred to go to some boys who were playing with balls in the afternoon. We saw two indian women coming to my friend's house, and they bought a new basket. The indian women left the house. I saw the boys who mocked them. I imitated them and I mocked the indian women who were very miserable. I saw the boys who threw many stones at them, one of the indian women, who was old reproved them, but they mocked her and laughed at her. one of boys threw a club at her head which was wounded. I saw a black man come to them and he said to the boys that three indian men were coming toward the boys and they disbanded fast away, but I ran to my friend's house. I discovered the indian men coming to the indian women. They asked them, what they were sorry for. They said to the indian men what the boys had done, they were very angry and they conversed with each other and went away. I went and met my father in the evening going to his house. I thought myself that I was bad for I had mocked the indian women.

*By a lad 14 years of age.*

### A STORY OF ELIJAH.

Elijah was a very good man and a prophet. He lived many years before Christ. God told Elijah to go to reprove Ahab who was a king of the Israelites. Elijah obeyed God and went to Ahab and reproved him, for his tempting many people to worship idols, and Ahab was angry at him. Elijah came and told God that Ahab refused to repent and was very angry at him. God told him to go to reprove Ahab again. Elijah went to Ahab and reproved him who was angry at him, and he wished to kill him. But God preserved Elijah. Elijah could not convert Ahab who did not repent. He came again and he told God that Ahab refused to repent, and was indignant at Ahab. God told Elijah that he would give him strength, and he would tell the clouds not to come up to rain. Elijah went again to Ahab and reproved him, but he refused to repent. Elijah told the clouds not to come up to rain. After several weeks, the people had no food, and there was a famine. Elijah was hungry, and he told God that he wished to have food, and he told him to go and hide by a brook near Jordan. The ravens fed Elijah with flesh and bread in the morning and evening, and he drank of the brook. Ahab knew that Elijah had told the clouds not to come up to rain, and he called his soldiers to search

for Elijah, and they searched for him, but they could not find him. At length there was no water in the brook, which was very dry. Elijah was thirsty and hungry, and he told God. "I want some food," and he told him to go to the house of a woman. Elijah went from Jordan to the house, and he saw the woman picking some sticks. While she was picking them, she thought that she would be hungry and she would die. Elijah told the woman that he wanted to have some water. She said, "there is a well in the house. She went to it, and filled a mug with water and gave him it and he drank it. Then he told the woman that he wanted to eat some food. She told him that she had no food, except a little flour and she could not give him it and he told her that God would give her bread, if she would give him it. She believed what he said. She went to a barrel, and took the flour from it and she made bread and gave it to Elijah who ate it. Then he said to her, "do you want some bread," and she said, yes sir. He told her to make bread and she said to him "I have taken all the barrel in which there is no flour. Elijah told the woman to go and see. She went to the barrel and saw flour in it and was surprised at the increasing of the flour. Elijah lived with the woman for several months. The woman's son died, and she was very sorry for it. Elijah came unto her and saw her crying and pitied her, and he said unto her, "why do you cry" and she said that her Son had died. He said unto her "where is your son"? She said, he lay on a bed. He went to it and saw him, and took the boy from the bed to a room, and prayed to God to give him life. Then the boy rose, and he led him to the woman, and she saw her son alive, and she embraced him. Elijah left the house, and he went to Ahab and Ahab knew that he had told the clouds not to come up to rain. He said to him, "why have you told the clouds not to come up" Elijah said "because I thrice reprov'd you" but you refused to repent Elijah told Ahab that he should go to a mountain with his army, the day afterwards, Ahab said to Elijah "I shall call the false prophets to come to the mountain". He left him, and went to the city and after a day, Ahab went with the false prophets to the mountain and Elijah assembled the false prophets and he built an altar. They killed a sheep or cow or ox, and put it on the altar which was very dry, but they did not make a fire, and They prayed to him to make the fire for several hours, but he could not make the fire. Elijah said, it proved that Baal could not do so. He told the false prophets to kill a cow, or an ox, and put it on the altar which was very wet, and Elijah prayed to God to make a fire. Soon God made a large fire upon the altar which became very dry. The false prophets were very much astonished at the power of God. The believed that God was almighty. Elijah and his friends slew four hundred and fifty of the false prophets. Then Elijah went away and chose Elisha and conversed with him and instructed him for many days. Then he was taken, and a chariot received him to heaven.

*By a lad 15 years of age.*

A SKETCH OF THE EFFECTS OF RELIGION.

True religion is the best of all kinds of knowledge. Its object is to save mankind. It was never invented by men. But a great many years ago, God inspired many prophets who wrote the holy word on their parchments. We have many Bibles which are printed. But there are a great number of the heathens in remote parts of the world, who have no bibles. They worship their idols made of wood or stone, or gold or silver; and they think that their idols will be pleased with them, if they throw their children into the rivers, and kill others because they have no knowledge of God. They are greatly ignorant of God. But many good missionaries go from their happy homes to remote parts of the world, where they arrive and they establish churches and schools, and they begin to call the heathens to them, and they preach to the heathens about the Bible, and Jesus who died for all sinners. Soon the heathens repent of their sins and determine to throw away their idols, while they feel anxiety for instruction in writing and reading and to learn to worship God. They become happy and grateful to God for his many blessings. These missionaries are willing to continue to preach while God keeps them from dangers. Thus the heathens are happy with the gospel.

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*By a lad 14½ years of age.*

AN ACCOUNT OF THE LIFE OF ROBERT FULTON.

Mr Fulton was born in 1765 at Little Britain in the state of Pennsylvania. When he was a boy, his parents sent him to school in Lancaster to be educated. When he was at the age of 17 years, he painted portraits and landscapes in the city of Philadelphia. He often went to the shops and he was engaged in thinking how he could invent in the hours of recreation. While he was in Philadelphia, he became intimate with Dr Franklin. When Mr. F. was twenty-two years old, he went to England and met Mr West who was one of the best American painters. Mr West was much pleased to see him, and took him to his home, and lived with him for several years. While Mr Fulton was in England, he was engaged in improving canals. In 1797, he went to France and met Chancellor Livingston, who was an American. Mr. Fulton and Livingston conferred together on the possibility of applying steam to propel boats. Then he made a steam boat and put it on the Seine-River in Paris. Mr Fulton made an attempt to succeed in inventing a steam-boat. In 1806. he left England & came to America, In 1807. while he was in New York, he made a steam boat and put it on the Hudson River. It was going to sail on that river about 5 miles an hour. He went to Albany to confer with the Legislature who permitted him to make a steam boat, and they were willing to let him continue to work at his business himself for twenty years. But soon some others wished to take the invention of Mr. Fulton. He had a law-suit with them for they interfered with his patent right. He died in the month of February 1815.

*By a young man 17 years of age.*

THE STORY OF A FARMER.

A farmer emigrated from Conn or Mass to N York, and lived there. He had a little money, and a small lot of ground. He attended a young lady every week, and then he asked her if she would marry him. She replied, Yes. When he asked her father if he would let him marry her. But he answered, No, because he was not rich. He wished some rich gentlemen might marry his daughter. The farmer was very sorry, and then whispered to the lady who should go to a place in three days in the evening to which he would come. She was pleased, and when she told her father that she wished to take a walk in the evening, then he let her, when she went to the place, and waited for the farmer's coming to her. He rode in a wagon to her, and took her into it, and fled away into Pennsylvania. He found a beautiful spot, and erected a log-house in the forest about 10 miles from the village; When it was completed, he went to the village, and told his wife that it was very good, and comfortable. He went with her on foot to the log-house. She was much pleased to see it, and remained in it. Her husband went out and bought some furniture for her, and then carried it to her. In a few days he felled the trees, and cultivated the ground which he changed into a garden. He raised different vegetables to support himself & his wife. Several days after he wished to buy different things, and then he went to the village, and got a newspaper. He found in it that the indians swore that they would come and destroy the whole village soon. He was surprised, and feared that they would kill his wife.

In the afternoon he set out for his log house, as he had often done but the storm was coming, and it rained very much. He could not find the path and the trees which were fallen down by the tempest, and the lightning which shot in the dark night rendered his march difficult. His clothes were all wet, and therefore he being wearied of walking about the forest, lay on the rocks till early in the morning. He arose from them. and spent his time in looking for his spot until about 11 o'clock in the morning. He went and found his log house which was consumed, and his wife lay on the ground, and was murdered by the barbarous indians. He was enraged in a furious manner, and swore that he wished very much to kill all the indians because they had killed his wife, and soon he cast her body into the fire and it was all consumed. Then he saw that the garden was destroyed, and found the tracks of the indians. He followed them for a day. At sun set he found the body of indians who were sitting on the ground, and talked with each others in the night, and then slept all. He thought how he could kill them but he was afraid of so many. He waited all night till they waked, and left this spot, and went through the forests while he followed them all day. At sun set the indians again sat and said one to another that they were very glad to have killed a woman, while he listened, and knew about them. He was very angry, and wished to know how he could kill them. But



he was afraid that they would kill him. So he waited for they slept all night, and then he followed the indians who were going thro' the forest to a river in the night, and the indians said one to another that they wished to go across the river while the farmer was very glad to listen. Then they told an indian to go to the falls, and make a fire on the shore above the falls. So he ran to the falls while the farmer followed, and the indian made a fire on the shore above the falls when the farmer came with cautious steps, and approached him, and soon pushed the indian off the precipice, and he fell fast into the water and was drowned. Then the farmer put out the fire; ran down, and deceived the indians by making a fire on the shore below the falls. When the indians came in their large canoes, they saw the fire, and thought that they would be safe in landing on the shore below the falls. But the fire led them to the fate of falling down the falls, and they cried with a loud voice when the same deceitful farmer soon came, and showed himself to them, and was very glad to see them drowning. Then he said that they should die as they had killed his wife. Now we know that this conduct was bad, and we must not entertain revengeful feelings.

*By the same.*

#### A DESCRIPTION OF THE PROCESS OF MAKING BREAD.

In the country, a farmer cuts the bushes and sets them on fire and they are consumed. Then he begins to plough ground which is improved. When he finishes the ground, he goes home to be rested for the space of two weeks. The sun shines upon the furrowed ground which becomes dry. Then the oxen draw a harrow on the ground, and afterwards the farmers begin to sow wheat on it. Then it is again harrowed, and the wheat is covered with the ground. When the winter comes, the snow falls down on the ground in which the wheat begins to grow short. In spring the wheat begins to rise up, until in summer, the sun shines upon it for a few weeks, and it becomes yellow. The farmer comes to his field of wheat, and sees if it is good and afterwards he calls several men. Before they go to reap the harvest, they carry some bottles of water, and molasses or milk. They rejoice to reap the harvest with their sickles. Then they bind the sheaves, and put them together in heaps on the ground. Then the wagon comes the farmer pitches them into it, and then places them in a barn. He puts them in order in it to remain, till winter: The farmer sends a boy to climb upon a ladder, and throw the sheaves down on the floor and they untie them. They spread them on the floor and they are thrashing the sheaves with their flails for a few minutes. Then they are winning the dust out with a fan or mill. They measure several bushels of wheat, and put into some bags. A boy puts them on a horse or in a wagon to send to a grist-mill. The wheat is ground into it and then he carries it to his house. The farmer's wife is very glad to have flour. She puts it into a large wooden dish, and pours warm water, and puts yeast and salt in it. She kneads it for a few minutes and then she puts a blanket upon it.



When it rises up for half an hour, she comes and takes dough up and puts it on a table. She makes some loaves. Before she sends a boy to split some pine wood and throw it into an oven, and sets it on fire for a few minutes, and it is hot. When it is consumed he cleans the coal with a shovel out of the oven. Then she puts every loaf on a wooden shovel and puts into the oven. Then she puts a door at the entrance of the oven, and in an hour she again comes and knocks upon the loaves and they are very good. She takes them out of the oven, and puts them on the table. This is called bread.

*By a young lady 18 years of age.*

#### THE ABBE DE L'EPEE.

The Abbe De L'Epee, who was a priest, lived in Paris. One day he called at a house of a stranger on business. But the lady was absent from home. When he knocked at the door, a servant heard it and opened it. She let him in and he was shown into a parlour where two young ladies were sitting down, engaged in sewing. One of them invited him with a motion of her hand to sit down; but she did not speak to him. He wished to converse with the ladies, while he was expecting that the lady would return home. Then he asked questions to the two ladies; but they did not answer him. He was very much surprised that they continued silent. He felt almost offended and imitated their silence. He waited for the mother who soon came home again. She met him and introduced her daughters to the priest and spoke to him with a sad countenance, informing him that they had never spoken since they were born. He pitied them because they did not know of the religion and worship of God who has created all the universe. He was in a great affliction at this intelligence of the deafness of the two ladies. Then he left and went home. He thought what means he could invent to instruct them. For several days he failed in this. He again went to the same house and told the mother that he felt greatly desirous to teach her daughters to understand the signs and therefore they could converse by writing. The mother was very happy to hear this. So every day he taught them and made them improve. In some years they became intelligent and they could express their ideas in writing. They were always very happy. The priest thought that there were several deaf mute persons in Paris and so he found them. They entered his own house to be educated. He always was an instructor till his death.

*By a young man 20 years of age.*

#### A DESCRIPTION OF THE ASYLUM.

This is a very large house denominated the asylum for the education of the Deaf and Dumb; the Legislature of the State of New-York have granted funds to defray the expense of building it. It is situated on a piece of ground between the third Avenue and the

middle road about three miles north of the city, about a mile & a half east of the Hudson River, about three quarters of a mile west of the East River, and about four miles south of the Harlem bridge. It was commenced in 1827, and completed in 1829. Men were employed in building it at the expense of \$81,000. It has about 25 rooms, three of which are school-rooms for the instruction of the Deaf and Dumb: two of them are studying rooms for them, several are occupied by teachers and men, some, furnished as parlours for visitors, and one has a library presented by the benevolent.

The length of the asylum is 110 feet, and its width 60 feet, and it has a basement, and three stories and looks like a college. The basement contains a dinning-room, a washing room, a kitchen, and ironing-room. There is a partition between two yards and sheds under which the males and females play.

The asylum is provided with six well qualified and experienced teachers; five of whom assist Mr. Peet in the duties of instructing the scholars in their five classes. The principal of the New-York Institution is Mr. Peet. And his duty is to take care of all the pupils, to make rules of conduct for them, and to have the superintendence and government. He was appointed a secretary of said Institution by the board of Directors, in the place of Dr Akerly, resigned. The Directors hold meetings monthly to consult about the business of the Institution and employ him in taking charge of all the pupils.

There are ten acres of land, belonging to the asylum, which consist of meadows, a lawn and two gardens. The meadows produce grass in abundance, which is converted into hay. The largest garden is planted with vegetables, and the other has various flowers for the female pupils. There is a shop built of wood, in which four competent and capable men have three trades to instruct the male pupils in the department of work and industry. And these trades consist of the cabinet-work, tailoring, and shoe-making. There is a stable standing opposite to the shop, in which horses, wagons, hay and straw are kept.

*By the same.*

#### AN ACCOUNT OF THE PROCESS OF RAISING FLAX AND MAKING LINEN-CLOTH.

When Spring follows Winter by the rotation of the Earth, Spring gives us a very lively scene, and we smile at her gentle influence. Among the twelve months of the year, April is well known to be the month of ploughing, harrowing and sowing.

In that month, I have seen the farmers sowing flax-seed upon the furrowed ground and harrowing it to cover it with the earth. He rejoices in looking at its rapid growth, which is watered by rain falling from the clouds, and which is influenced by the heat of the sun. When it is fully grown in warm weather he employs men in pulling flax, and in spreading it on the ground. The flax, when spread, is wet by the falling of rain, and is dried by the force

of the sun's heat. They bind small bundles of flax, heap them together in cocks, pitch them upon a wagon, carry them in it with a couple of oxen or horses to the farmer's barn, and unload them there. In a short time the small bundles of flax are first thrashed with flails, and are beaten upon a stone. They are carried to the meadow below, and spread on it; they soon become rotten. In a short time the farmer turns the flax over on the grass-ground with his long stick. He goes to the meadow again and breaks several stalks of flax; it is dried. When binding dry bundles of flax, they are carried to the barn again. They are kept in it till the season of Winter comes, during which time he dresses it by means of a brake, and swingles it by that of a swingling-knife. He twists a bunch of flax, measures the weight of it on a steelyard, and conveys it home. A poor woman is employed in cleaning it with a hatchel, in spinning it with a spinning-wheel, in rinsing yarns of flax in the water; and in making linen of the flax by weaving in a loom. She has a watering-pot to sprinkle the linen-cloth with the water, which is placed on the meadow, and in a few days it becomes bleached by the heat of the sun. It serves to give the farmers and men some clothes to be worn in warm climates.

Among articles of dress, linen-cloth, when made of the flax, is chiefly used by the farmers and men in various countries. The clothes which are for us, are the gift of a kind Providence for which we should be thankful.

**No. 211.**

**IN ASSEMBLY,**

**February 25 1833.**

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**MESSAGE**

**From the Governor, transmitting Resolutions of the  
States of Virginia, New-Jersey and Delaware.**

**TO THE ASSEMBLY.**

**GENTLEMEN:**

I lay before you the accompanying preamble and resolutions, passed by the General Assembly of Virginia; also a preamble and resolutions, passed by the Legislative Council and General Assembly of the State of New-Jersey, relating to the difficulties existing between the State of South Carolina and the General Government.

I also lay before you the accompanying resolutions, adopted by the General Assembly of the State of Delaware, relative to the organization of the militia of the several States.

**W. L. MARCY.**

*February 25, 1833.*



# **RESOLUTIONS.**

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( No. 1. )

## **Resolutions of the State of Virginia.**

EXECUTIVE DEPARTMENT, }  
RICHMOND, VIRGINIA, }

*January 26, 1822.*

**SIR:**

I have the honor to transmit the accompanying Preamble and Resolutions passed by the General Assembly of Virginia, and to request that they may be laid before the Legislature of your State.

I have the honor to be,

Very respectfully,

Your obedient servant,

**JOHN FLOYD.**

**To His EXCELLENCY,**  
*The Governor of New-York.*

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## **FEDERAL RELATIONS.**

Whereas the General Assembly of Virginia, actuated by an ardent desire to preserve the peace and harmony of our common country; relying upon the sense of justice of the people of each and every State of the Union, as a sufficient pledge that their Representatives in Congress will so modify the acts laying duties and imposts on the importation of foreign commodities, commonly called the Tariff Acts, that they will no longer furnish cause of complaint to the people of any particular State; believing, accordingly, that the people of South Carolina are mistaken in supposing that Congress will yield them no relief from the pressure of those Acts, especially as the auspicious approach of the extinguishment of the public debt affords a just ground for the indulgence of a contrary expectation; and confident that they are too strongly attached to the union of the States to resort to any proceedings which might dissolve or endanger it, whilst they have any fair hope of obtaining their object by more regular and peaceful measures; persuaded, also, that they will listen willingly and respectfully to the voice of Virginia, earnestly and affectionately requesting and entreating them to rescind and suspend their late Ordinance, and await the result of a combined and strenuous effort of the friends of union and peace, to effect an adjustment and reconciliation of

all public differences now unhappily existing; regarding, moreover, an appeal to force on the part of the General Government, or on the part of the Government of South Carolina, as a measure which nothing but extreme necessity could justify or excuse in either; but apprehensive at the same time, that if the present state of things is allowed to continue, acts of violence will occur, which may lead to consequences that all would deplore; cannot but deem it a solemn duty to interpose and mediate between the high contending parties, by the declaration of their opinions and wishes, which they trust that both will consider and respect: Therefore,

1. *Resolved by the General Assembly, in the name and on behalf of the People of Virginia,* That the competent authorities of South Carolina be, and they are hereby earnestly and respectfully requested and entreated to rescind the Ordinance of the late Convention of that State, entitled, "An Ordinance to nullify certain Acts of the Congress of the United States, purporting to be laws laying duties and imposts on the importation of foreign commodities;" or, at least, to suspend its operation until the close of the first session of the next Congress.

2. *Resolved,* That the Congress of the United States be, and they are hereby earnestly and respectfully requested and entreated so to modify the Acts laying duties and imposts on the importation of foreign commodities, commonly called the Tariff Acts, as to effect a gradual but speedy reduction of the resulting revenue of the General Government, to the standard of the necessary and proper expenditure for the support thereof.

3. *Resolved,* That the people of Virginia expect, and in the opinion of the General Assembly, the people of the other States have a right to expect, that the General Government, and the Government of South Carolina, and all persons acting under the authority of either, will carefully abstain from any and all acts whatever, which may be calculated to disturb the tranquillity of the country, or endanger the existence of the Union.

And whereas, considering the opinions which have been advanced and maintained by the Convention of South Carolina, in its late Ordinance and Addresses on the one hand, and by the President of the United States, in his Proclamation, bearing date the 10th day of December, 1832, on the other, the General Assembly deem it due to themselves, and the people whom they represent, to declare and make known their own views in relation to some of the important and interesting questions which these papers present: Therefore,

4. *Resolved by the General Assembly,* That they continue to regard the doctrines of State Sovereignty and State Rights, as set forth in the Resolutions of 1798, and sustained by the Report thereon of 1799, as a true interpretation of the Constitution of the United States, and of the powers therein given to the General Government; but that they do not consider them as sanctioning the proceedings of South Carolina, indicated in her said Ordinance; nor as countenancing all the principles assumed by the President in his said Proclamation; many of which are in direct conflict with them.

5. *Resolved*, That this House will, by joint vote with the Senate, proceed on this day to elect a Commissioner, whose duty it shall be to proceed immediately to South Carolina, and communicate the foregoing Preamble and Resolutions to the Governor of that State, with a request that they may be communicated to the Legislature of that State, or any Convention of its citizens, or give them such other direction, as in his judgment may be best calculated to promote the objects which this Commonwealth has in view; and that the said Commissioner be authorized to express to the public authorities and people of our sister State, in such manner as he may deem most expedient, our sincere good will to our sister State, and our anxious solicitude that the kind and respectful recommendations we have addressed to her, may lead to an accommodation of all the difficulties between that State and the General Government.

6. *Resolved*, That the Governor of the Commonwealth be, and he hereby is requested to communicate the foregoing preamble and Resolutions to the President of the United States, to the Governors of the other States, and to our Senators and Representatives in Congress.

VIRGINIA—*City of Richmond, to wit:*

I, GEORGE W. MUNFORD, Clerk of the House of Delegates, and Keeper of the Rolls of the Commonwealth of Virginia, do hereby certify and make known, that the foregoing is a true copy of a Preamble and Resolutions adopted by the General Assembly of Virginia, on the 26th day of January, 1833. Given under my hand, this 8th of February, 1833.

GEORGE W. MUNFORD, C. H. D.  
*And Keeper of the Rolls of Virginia.*

( No. 2. )

## Resolutions of the State of New-Jersey.

### STATE OF NEW-JERSEY.

EXECUTIVE DEPARTMENT, }  
*Trenton, Feb. 19, 1833.* }

SIR,

I have the honor to transmit to your Excellency, Preamble and Resolutions, recently passed by the Legislative Council and General Assembly of this State—and am, very respectfully,

&c. &c. &c.

SAM. L. SOUTHARD.

TO HIS EXCELLENCY,

*The Governor of the State of New-York.*



## STATE OF NEW-JERSEY.

WHEREAS the people of the State of South Carolina, in Convention assembled, have by an Ordinance, dated twenty-fourth of November, eighteen hundred and thirty-two, declared and ordained that the several Acts and parts of Acts of the Congress of these United States, purporting to be laws for the imposing of duties and imposts on the importation of foreign commodities, are unauthorized by the Constitution, violate the true intent and meaning thereof, and are null and void and not binding upon the said State, its officers or citizens have proclaimed their determination to enforce said Ordinance at every hazard, denied the authority of the General Government to enforce the revenue laws within the said State of South Carolina, and transmitted a copy of such Ordinance, together with an appeal to the people of the United States, to the Executive of this State: AND WHEREAS the high obligations we owe to our common country, as a member of this great confederacy, as well as the due preservation of the inestimable privileges we enjoy under this free and happy government, secured by the toils and cemented by the blood of our common ancestors, has rendered it an imperative duty to proclaim our opinions upon this important subject—THEREFORE, in the name and in behalf of the people of the State of New-Jersey, and as their legal representatives,

1. *BE IT RESOLVED*, by the Council and General Assembly of said State, That the Constitution adopted and sanctioned by the people of these United States, as well as our early history, our common interest, our habits, our intercourse, our love of freedom, the honor, strength, and durability of our country, proclaim that all the States of this Union make one indivisible nation united in prosperity and adversity, in peace as in war, by the sacred and indissoluble bond of their Union.

2. *Resolved*, That we deprecate the acts and proceedings of our brethren of the State of South Carolina, as opposed to the fundamental principles upon which the government of these United States is based, as violating the spirit and meaning of the Federal Constitution, and tending to rend asunder those ties of common interest and fraternal regard, of mutual dependence and reciprocal obligation, which are alike our pride, our glory and our strength, and which have proclaimed us to the world a United People.

3. *Resolved*, That when South Carolina, together with all the other States, acceded to this Union, and adopted the Constitution, she and they became thereby irrevocably bound that all controversy upon the constitutionality of an act of Congress, should be finally adjudicated by the Supreme Court of these United States. The sacred charter of our liberties never contemplated that each State had reserved to itself an ultimate appeal to its own citizens in their sovereign capacity.

4. *Resolved*, That the manufactures of America, are one of the elements of our Independence and greatness; not oppressing but advancing hand in hand with agriculture and commerce. These

three sources of National prosperity, demand equally the fostering protection of Government; to crush either would be to paralyze all; and to the General Government, alone, standing on an elevation to survey the whole ground, belongs the information, the wisdom, and the power to apportion just patronage wherever circumstances may require.

5. *Resolved*, That the Constitution of the United States, now contains within itself, an ample provision for its amendment, and for the remedy of every evil which may arise from unforeseen events, or ambiguous construction. When this provision shall be legally called into operation, we shall be prompt to concede all to justice, much to fraternal feeling, and somewhat even to local excitement and mistaken enthusiasm. But it cannot comport either with dignity or sound policy to yield aught in the face of threatened disunion and an armed resistance to the laws.

6. *Resolved*, That the principles contained in the Proclamation, and late Message of the President of the United States, meet our entire approbation; and that we will sustain the Chief Magistrate of the Union in the constitutional enforcement of these principles.

7. *Resolved*, That we implore our Fellow Citizens of South Carolina, allied as they are to us, by all the heart stirring and inspiring recollections of the eventful struggle, that made us an independent nation, maturely to ponder over the present crisis in their affairs, and magnanimously to return to more temperate counsels, and a juster sense of that obedience to the general will which constitutes the lasting security, and should be the glory and the ornament of every member of this confederacy. But should our Fellow Citizens of South Carolina, contrary to our reasonable expectations, unsheath the sword, it becomes our solemn and imperative duty to declare, that no separate nation ought or can be suffered to intrude into the very centre of our Territory.

8. *Resolved*, That the Governor be requested to transmit a copy of these Resolutions to the President of the United States, to each Senator and Representative in Congress, from this State, and to the Governors of the respective States of the Union.

*House of Assembly, Feb. 18, 1833.*

These re-engrossed Joint Resolutions having been three times read in the House of Assembly,

*Resolved*, That the same do pass.

By order of the House.

JOHN P. JACKSON, *Speaker of Assembly.*

*In Council, Feb. 18, 1833.*

These re-engrossed Joint Resolutions having been three times read in the Council and compared,

*Resolved*, That the same do pass.

By order of the Council.

ELIAS P. SEELEY, *Vice President.*

I, JAMES D. WESTCOTT, Secretary of the State of New-Jersey, do certify, that the foregoing is a true copy of the Joint Resolutions of the Legislative Council of the General Assembly of the State of New-Jersey, passed February 18th, A. D. one thousand eight hundred and thirty-three, as compared with the original, now remaining on file in my office.

In testimony whereof, I have hereunto set my hand and affixed the seal of my said office, at the city of Trenton, in said State, this 18th day of February, A. D. one thousand eight hundred and thirty-three.

JAMES D. WESTCOTT.

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( No. 3. )

## Resolutions of the State of Delaware.

EXECUTIVE DEPARTMENT, }  
DOVER, DELAWARE, }

February 14, 1833.

SIR:

I have the honor to transmit to you certain Resolutions, adopted by the General Assembly of this State, recommending the passage of a law by the Congress of the United States, providing for a more perfect and uniform organization of the Militia of the several States.

With high consideration,

I am very respectfully,

Your ob't. serv't.

C. P. BENNETT.

To HIS EXCELLENCY,

*The Governor of New-York.*

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## RESOLUTIONS

*Of the General Assembly of the State of Delaware, as to the Organization of the Militia of the United States.*

*Resolved*, By the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the organization of the Militia of the United States, being a matter entrusted by the Constitution to the General Government, requires its attention, and can be only efficiently and satisfactorily done by that Government.

*Resolved*, That our Senators in Congress be, and are hereby instructed, and our Representatives requested, to use their exertions

to procure the passage of a law, providing for a more perfect and uniform organization of the Militia of the several States of the Union.

*Resolved*, That His Excellency the Governor of this State, be directed to transmit to each of our Senators and to our Representative in Congress, a copy of the foregoing Resolutions; also, a copy to the Governors of the other States in the Union, with a view, that the same may be submitted to their different Legislatures.

**JOSHUA BURTON,**  
*Speaker of the Senate.*

**THOMAS DAVIS,**  
*Speaker of the House of Representatives.*

*Passed at Dover, February 1, 1833.*



**IN ASSEMBLY,**

**February 28, 1833.**

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**REPORT**

**Of the select committee, on the petition of Pierre Joseph de Casters and others.**

Mr. Morris, from the select committee to which was referred the petition of Pierre Joseph De Casters and Jeanne Antoinette his wife, Charles Joseph Gulliard Delafaille, Jean Joseph Renier Osy, Jean Joseph Perison, all of Antwerp, in the Kingdom of Belgium, Jean Baptiste Francois de Seran, of Paris, in the Kingdom of France, and Honorine Camille Athenais de Lature du Pen, of the same place,

**REPORTED:**

That all the petitioners are aliens; some are citizens of the Kingdom of Belgium, others of that of France.

The petitioners are all creditors of James de La Ray De Chaumont, of the county of Jefferson, in the State of New-York. They, or the persons whom they represent, many years since loaned large sums of money to Mr. La Ray De Chaumont, which money was chiefly employed by him in the purchase and settlement of extensive tracts of land in the northern counties of the State of New-York.

In the year 1823, Mr. La Ray de Chaumont having become unable to reimburse the said loans, or longer to pay the interest thereon, made a general assignment of all his estate to his son, Vincent Ra Lay De Chaumont, in trust, to pay certain debts out of the proceeds thereof, and then to apply the residue of the proceeds towards the discharge of the demands of such of his other creditors as within one year after the date of said trust deed

should come in under the same and accept its provisions in satisfaction of their respective claims.

By the provisions of the trust deed alluded to, it was made the duty of the trustee, by a day specified, to sell at public auction all the residue of the trust estate, and to allow to such creditors who should come in under the trust, and should purchase at such sale, a credit on account of the purchase monies to the extent of their respective dividends of the whole proceeds of the trust estate.

A bill has since been filed in the court of chancery of the State of New-York against Vincent La Ray De Chaumont and Samuel C. Kennedy, by the petitioners, Pierre Joseph De Casters and wife, in behalf of themselves and all other creditors who should come in and seek relief in that suit; in which suit a final decree has been obtained, ordering the residue of the trust estate to be sold by the trustee at public auction in the city of New-York. The trustee is directed by the decree, in conformity with the provisions of the trust conveyance, to allow the creditors purchasing at the sale, credit on account of their respective purchases to the amount of their respective dividends of the proceeds of the trust estate.

It is also represented, and your committee believe, that if the trust estate (it being wild lands, and a large quantity,) should be exposed to be purchased only by those who were to pay the money for their bids, it would be sold for far less than its value, and these creditors would realize but a small proportion of the debt that is due them.

Under this state of facts, the petitioners ask to be permitted to purchase and hold some of the said trust estate, to enable them to save a portion of the debt due to them by Mr. La Ray De Chaumont. They ask to be permitted to hold the land thus purchased for fifteen years, and to be authorised to sell and convey the same. They hope by this means to save a large proportion of the debt due to them.

Your committee are of opinion that the request of the petitioners is just and equitable, and have therefore prepared a bill in accordance with their prayer, which they beg leave to introduce.

**No. 213.**

**IN ASSEMBLY,**

**March 1, 1833.**

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**ANNUAL REPORT**

**Of the Dutchess county Bank.**

*Statement of the Funds of the Dutchess County Bank, (of Poughkeepsie,) February 16th, 1833.*

**RESOURCES OF THE BANK.**

Notes discounted and other securities, .....	\$358,463 67
Specie on hand, .....	\$14,072 61
Balance due from Phoenix bank, New-York, .....	67,468 40
Bills of New-York and other specie paying banks, .....	12,909 15
Balances due from New-York and other specie paying banks, .....	11,225 63
	<hr/>
	105,675 88
Banking-house and lot, .....	6,500 00
“ furniture, &c. ....	8,028 32
Suspense account, .....	1,147 12
	<hr/>
	<b>\$474,814 99</b>

**DUE FROM THE BANK.**

Stock paid in, .....	\$90,000 00
Bank notes in circulation, .....	264,333 00
Balances due other banks, .....	7,285 84
Individual credits, .....	100,521 79
Nett profits on hand, .....	12,674 36
	<hr/>
	<b>\$474,814 99</b>



*Dutchess county, ss. .*

James Emott, president, and Walter Cunningham, cashier of the Dutchess county bank, being sworn, depose and say, that the foregoing is a full and true account of the funds and property of the bank; that the amount of the capital stock subscribed, is \$150,000, of which \$90,000 is paid in; and that the amount of specie above stated, is bona fide the property of the bank, and has not been borrowed or in anywise obtained with the view to make this return. And these deponents further say, that since the last annual return, the bank has kept an account in the city of New-York, in the Phoenix bank, in order to have its bills receivable and current in New-York, so that its bills might pass in the State and elsewhere without discount; and the directors have accordingly ordered such surplus funds as were not needed at the bank for its ordinary business, to be sent to the Phoenix bank to redeem its paper there; and that the sum above stated, as being in the Phoenix bank are the funds of this bank placed there for the aforesaid purpose. And these deponents further say, that the balances due other banks, as stated above, are for collections recently made for such banks and not yet remitted.

JAMES EMOTT,  
WALTER CUNNINGHAM.

*Sworn this 25th day of*

*February, 1833, before me,*

LEONARD MAISON,

*Master in Chancery.*

**IN ASSEMBLY,**

**February 25, 1833.**

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**REPORT**

**Of the committee on claims, on the petition of  
Aaron Sergeant.**

Mr. Russell, from the committee on claims, to whom was referred the petition of Aaron Sergeant, praying for the passage of a law authorizing the Comptroller to execute new certificates upon the sale of land for taxes, in lieu of the original certificates which are lost, and for general relief,

**REPORTED:**

The petitioner alleges, that on the 12th April, 1830, at a sale of land for taxes by the Comptroller, he became the purchaser of certain pieces of land, in the petition particularly set forth, and that he paid into the treasury of the State, the amount of the purchase money: That while the sales were progressing, and before he obtained his certificates from the Comptroller, he left Albany, and requested Mr. J. O. Dey to obtain from the the Comptroller the certificate of sales, and forward the same to him, the petitioner, in the city of New-York: That Mr. Dey obtained the certificates and enclosed them in a package to the petitioner, in charge of a hand on board the steam-boat New Philadelphia; which package, with the certificates, were lost. Mr. Dey appeared before the committee and testified that, though the applicant bought the lots at the sale, yet he left the city without paying therefor; and when he went away he requested the witness to pay into the treasury the amount of the purchase money, and obtain from the Comptroller the certificates, and forward them to the applicant in New-York: That he paid the money, took the certificates in the

name of the petitioner, and enclosed them to the applicant, and drew for the amount thus advanced: That before his draft was received in New-York, the amount of the purchase money for the lots was forwarded to the Comptroller, and lay in his office unapplied for a long time, and until the applicant, in a settlement with the Comptroller, afterwards directed it carried forward to the credit of the applicant, and applied in part payment of his general account at that office: That after considerable delay the applicant paid the witness' draft for the money so advanced; but that in the course of their business there remained a balance due the witness to an amount greater than that in the office, (the lands mostly having been redeemed) and to satisfy the balance of this general account, the witness claims a specific lien upon the money in the office.

The committee are of the opinion, that there is no necessity for legislative interposition, for the reason stated in the report of the committee in the matter of Lucas Elmendorf, this day reported; and that the Legislature cannot be required to prescribe a rule of conduct for one of these individuals as against the other, by special law relating to this particular matter; the law furnishes an appropriate remedy for the one, and due protection to the other.

If the draft of the witness upon the petitioner for money advanced for the lots in question had not been paid, a different question might have been presented to the Comptroller from that which now exists, but inasmuch as these conflicting claims are not to be settled by legislative enactment, and the Comptroller having full power to do justice to the applicant in relation to the lost certificates, the committee are of opinion that no necessity exists for legislation on the subject, and therefore offer for the consideration of the House, the following resolution.

*Resolved*, That the prayer of the petitioner, Aaron Sergeant, ought not to be granted.

**No. 215.**

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**IN ASSEMBLY,**

**March 2, 1833.**

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**REPORT**

**Of the committee on banks and insurance companies, on the bill entitled "An Act to prevent the passing and receiving of bank notes less than the nominal value of five dollars."**

Mr. Morris, from the committee on the incorporation and alteration of the charters of banking and insurance companies, to which was referred "An act to prevent the passing and receiving of bank notes less than the nominal value of five dollars,"

**REPORTED:**

The object of this act, is to exclude from circulation all bank bills under the denomination of five dollars: consequently the effect of the law asked for, will be general in its operation.

The injurious consequences resulting from the present circulation (if any exist,) must have been observed and felt by the people generally. If so, the people's known scrupulous attention to their interests, and their admitted intelligence, would, your committee believe, have produced petitions against the present circulation, and suggestions for a substitute. This act, however, is not the product of petitions. It is introduced upon notice by a member of this House. Being thus general in its operation, and not having been petitioned for, your committee view the proposition with less favor than the source from which it emanates, would otherwise receive.

"The legitimate use of banks, (say the Bank Commissioners, in their report to us,) is for the purpose of furnishing a currency to be used instead of specie, in facilitating the exchange of property."

Bills are less burdensome to carry than specie; and your committee believe, that the circulation of bank bills under the denomination of five dollars, is extremely convenient and useful to community, in facilitating the exchange of property; and that a withdrawal of bills of that denomination would cause great inconvenience.

A prominent argument used against the circulation of bills under five dollars, is the facility afforded to the counterfeiter. That objection applies equally to all paper currency. We know that counterfeits are made of the denomination most in circulation where the counterfeits are intended to be used. If you take one's, two's and three's out of circulation, the counterfeiter will immediately apply himself to the making of five's and ten's. And that fraudulent practice will be more liberally rewarded in proportion to the size of the bill that is imitated. If your small bills are taken out of circulation, your coin will be counterfeited. You cannot prevent counterfeiting by withdrawing any particular denomination of circulating medium, for, upon the circulation you leave, the counterfeits will be then concentrated. The improvement of morals, the detection and punishment of the criminal, is all that can prevent the crime.

Another argument used in favor of this bill, is, that banks (meaning the country banks,) make a greater profit upon small bills, than upon the larger ones, and it is urged, if you will withdraw these small bills, bank profits will be reduced, and the Legislature will be less importuned for charters. If it is correct, that the banks make more by the circulation of their small than by their larger bills, it is additional evidence that small bills are more useful to community than large, or they would not be so generally preferred.

Neither does your committee subscribe to the doctrine, *destroy all profit to banks, and thereby prevent applications*. We believe, where the exigencies of community require it, a bank should be granted; and we know that capitalists will not invest for general good, unless they can also obtain a personal pecuniary benefit.—Your committee cannot perceive either inequity or impropriety in bestowing a personal benefit, when that benefit is the foundation of a more *extensive general good*.

Neither does your committee apprehend that this Legislature will injuriously increase bank capital. By the immense amount of

bank applications it has already rejected, we have an earnest of its future acts. Gentlemen will discriminate between the bank bills which are before us: charters will be granted for *public good*, not for *private emolument*: and there is no cause for apprehending such an increase of banking capital, as to endanger the circulating medium of the state.

Your committee are of opinion this act should not become a law.



**IN ASSEMBLY,**

**March 2, 1833.**

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**REPORT**

**Of the select committee on sundry memorials of the inhabitants of various towns and counties in this State, relative to the law abolishing imprisonment for debt.**

Mr. Herttell, from the select committee to whom were referred sundry memorials of the inhabitants of various towns and counties of this State, praying for the repeal of the law abolishing imprisonment for debt, passed the 26th day of April, 1831, and which went into operation on the 1st day of March, 1832,

**REPORTED:**

That your committee have had the subject with which they were charged under consideration, and bestowed upon it that attention and reflection to which a matter so important, involving some of the most essential rights and interests of the citizens of this State, is entitled.

Before, however, making any remarks on the prayer of the said memorials, or the complaints and allegations contained therein, your committee deem it proper, as a matter essentially connected with that referred to their consideration, to premise, that there are human *rights* which are *alienable*, and others which are *unalienable*: that is, there are some *rights* which man may exercise himself, or which, if he chooses, he may appoint or authorize others to perform. These are therefore *alienable*. But there are other rights which men may exercise themselves, respectively, but which they have no right to delegate others to perform or exercise. Among these are the *rights of life* and of *personal liberty*. That these being *unalienable* cannot be parted with by any bar-



gain or contract, and hence, that no person nor government can derive a right from his or their constituents to deprive them of the unalienable rights just mentioned, under the colour or pretence of any alleged agreement for such purpose, is fully illustrated by the following considerations:

“The love of life is doubtless the strongest sentiment which can influence the actions of mankind. It is inherent in the very organization of human existence. It is therefore irresistible in its operation, and co-existent with life itself. The *power* by which man was created, and not man himself, implanted this sentiment in the human mind: and being the first and strongest sentiment which can influence human actions, it indicates ‘self-preservation as the first law of nature;’ to insure obedience to which, the source of life has wisely made the disposition of man to live and preserve his existence, as strong as the obligation to do so. Hence it is that man has no right *voluntarily* to destroy his own life. It is for this reason that *suicide* is placed on the catalogue of human crimes.”

“It would doubtless be futile and unjust to make a law, and command obedience to it, without giving those on whom it is intended to be obligatory, the power to obey it. The powers of *mind* are not sufficient for the purpose above indicated, when the body is held in *duress*. It is therefore only by means of the free exercise of the powers both of *mind* and *body*, that the laws of *self-preservation* can be fulfilled. The injunction, therefore, and also the right to exercise the *intellectual faculties* and the *bodily powers*, for the purpose of pursuing the means of human existence, is as well defined, and as obligatory as the law of *self-preservation*, of which it necessarily constitutes a part. Hence man having no right voluntarily to destroy his own life, he cannot authorize another to take it away; inasmuch as he cannot empower another to do that which he has no right to do himself. It is for this reason that taking life in a *duel* is *murder*, notwithstanding the contract or *agreement* of the parties to fight. *Personal liberty* being indispensably necessary to the fulfilment of the laws of *self-preservation*, man is equally bound to preserve and exercise it; and has no more right voluntarily to resign it, or part with it by agreement or contract, than he has to destroy his own life or to bargain with another to destroy it. Hence *the right of personal liberty is unalienable*: and man has no more right to authorize another, by virtue of any agreement, to destroy or restrain his *personal liberty* than he

has, as before remarked, to delegate or authorize another to destroy his life, in pursuance of any contract for that purpose."

If it should be objected, that this reasoning goes to deny the right of government to imprison for *criminal offences*, your committee answer, not so; government not only possess that right, but to prevent crime and to punish the offender, is an essential, or the primary object for which political governments are instituted: and that power emanates from the very laws of *self-preservation*, of which we have been speaking. That natural law is so obvious and imperative, that it authorizes each individual, even in a state of nature, to take the life or restrain the liberty of any who may seek to destroy or endanger the life of the assailed, or who attempt to violate the natural and unalienable right of life, or of personal liberty. Each individual, by virtue of the laws of self-preservation, possessing the right of *self-defence*, all are alike vested with it, and hence may, by agreement, refer the matter of controversy, in cases where it is practicable so to do, to other individuals to determine the manner and the degree in which the aggressor shall be punished. These referees, representatives or government, are therefore not only bound to defend and protect each individual from aggression, but have a right, as each one in a state of nature has, for the purpose of self-preservation, to place the aggressor in such a situation, or to inflict such reasonable punishment as will be most likely to insure the safety of each and every individual member of the civil compact. Thus the powers of government to prevent crimes and to inflict punishment for criminal offences, are derived from individual right, under the law of self-preservation: still reserving to each individual the *right of self-defence* when life or liberty requires immediate and efficient protection.

Here your committee beg leave to remark, as an incontrovertible and invariable axiom in logical reasoning, that *inconsistency* is error, or conclusive proof of its existence. *Truth* alone is consistent with truth:—and that each truth, must of necessity, be consistent with every other.

Having established the truth, that the right to personal liberty is both natural and unalienable, and cannot righteously be destroyed, nor restrained by the express provisions, or the operation of any voluntary contract; and having also shown that individuals have a right, and hence that government may acquire the power

to restrain the liberty or punish by imprisonment or otherwise those who shall have committed any *criminal offence*, or *attempt* to do so: it follows, without the possibility of evading the conclusion, that every contract, under the operation, colour, or pretence of which, personal liberty shall be invaded, or claimed to be forfeited without crime, or criminal attempt, is *inconsistent* with the *unalienable* right of personal liberty, and is consequently, unjust, unjustifiable and void; and that no act of government, intended to authorize such contract, or operating to sustain it, could change its objectionable character, is manifest, for that government can possess no right or rightful power, but such as is derived from its constituents; and no person possessing a right to *alienate* an *unalienable* right, the government cannot acquire a power which its constituents do not possess, and therefore no power to give or delegate to their political agents or representatives.

Although it may seem superfluous to array, as might be done, an immense volume of corresponding argument on the subject under consideration: yet, your committee, being strongly impressed with the importance of the truths which they advocate, and with a view to a more extended diffusion of the knowledge of them, deem it proper here to add the following further illustration of them, and of the propriety, utility, and moral obligation, of an undeviating adherence to them.

Were imprisonment for debt just and righteous, it would be equally so for any persons to enter into an agreement or contract, in which the *provisions* and *effects* of that law should be made the subjects of *express stipulations*. Let us follow out these positions consistently, with the view to ascertain where the doctrine of imprisonment for debt will land us.

Should one contract to purchase goods on credit, and agree that if he failed to make payment at the appointed time, that his life should be forfeited to his creditor, will it be contended, that should the debtor not pay at the time stipulated for that purpose, that the debtor's life would be forfeited? And if the creditor should take the debtor's life, and should plead the aforementioned contract, in justification of the act, would it avail him on an indictment for murder? Would he not be told, and told truly, that no person has a right to commit *suicide*, and that his life not being at his own disposal, he cannot by contract, delegate another to do that which he had no right to do himself? and that to take life under such cir-

cumstances, amounts to the crime of murder: and were it otherwise, an agreement to fight a *duel* would be valid, and might be set up as a good defence, on an indictment for the murder of a person killed by those means.

Again. Should it be alleged and admitted that the debtor was a dishonest man, and had failed by means of *fraud* to fulfil his contract for payment, would *that* extenuate the offence, or justify the killing? Would the creditor not be told by the court, that he is no less a murderer, though his victim was a *criminal*—that his crime still is murder, though his victim was a *fraudulent debtor*? And should the arraigned prisoner turn to the statute book and point out a law to render such contracts valid, and to authorize and require their literal execution, would not the court tell him, that the *law of self-preservation* is irresistibly imperative, and of prior and paramount obligation; and therefore, the *right of life is unalienable*, and no human law can make it otherwise, or justify its violation, on the authority of voluntary *contract*?

And would the reasoning and decision of the court be materially different in case of a *contract* for the imprisonment of a defaulting debtor, or a contract operating to effect such a result? With a view to show that it would not, we will in this as in the preceding case, make the effects of the law of imprisonment for debt, and the practices under it, the subjects of express stipulation, and set them forth at large in the written contract, by which the creditor may insist that the debtor, in default of payment, shall be arrested, dragged from his home, his family, his friends, and incarcerated like a criminal, in a loathsome prison, and there, whether able to pay or not, shall live or die, unless he pays the debt. He shall be restrained in his freedom, even in a greater degree than a negro slave, and yet shall be obliged to labor for his subsistence, live on charity, or starve to death. His wife and helpless children shall be bereft of her husband's and their father's care and protection, and deprived of his services and his labor for their comfort and subsistence; they shall, if it be possible, provide for themselves, be maintained by their friends, or subsist on public charity. *He* shall live in idleness, and spend his leisure hours in bewailing his misfortunes, and his bitter cup of sorrows shall be more embittered by the agonizing reflection that his wife and children are suffering deep and accumulating distress for want of his presence, his labor and his counsel: and finally, that he may, by the combined operation

of all the causes here mentioned, be led to contract those vicious habits which idleness, misfortune and bad company seldom fail to produce in *debtor's* prisons.

Here your committee will ask, should a person go into court with such a contract in his hand, duly sealed and delivered, and insist on its execution, and his right to enforce it, would not any judge who should be possessed of sufficient intelligence and humanity, to merit the honor of his official station, indignantly exclaim, "Worse than Shylock!! He would have been satisfied with a pound of human flesh; but this human cormorant would have the whole carcass at his own disposal!"—and would not a humane, moral and intelligent audience involuntarily respond in concert with the feelings and opinion of the court?

What an iniquitous contract that must be, the terms and consequences of which are so abhorrent to the human feelings! Yet as bad as it may be, and unquestionably is, it contains nothing more than what is justified by the law of imprisonment for debt, and the consequences which follow its practical operation: in concert with the *spirit* of which, it has been absurdly assumed as an axiom in forensic logic, that "*the imprisonment of the body, is the greatest satisfaction known to the law;*" a position which not only violates truth and common sense, but goes the length of arraying acts of cruelty in the robes of justice! "By its fruit the tree is known;" and that must be an unrighteous and immoral law which induces and authorizes a course of conduct, or which necessarily leads to consequences from which the natural and benevolent feelings of the human heart involuntarily revolt.

But let us hear what the court would, or ought to say to the party claiming the literal fulfilment of the last mentioned contract. Would the court not deny the plaintiff's suit, and justify such refusal, under the *existing laws* and *legal* and *moral* maxims which govern other civil contracts? Would they not tell him, that "it is a principle of natural and common law, as well as of moral philosophy and logical reasoning, that the lesser force necessarily must, and naturally does, give way to the greater: and that the principle holds good as it respects civil contracts." If an individual could, by contract, rightfully authorize a creditor to divest him of his personal liberty, by imprisoning him for the non-payment of debt, he could with equal propriety and legality contract to become the *slave* of

the creditor in the event of inability or neglect to pay his debt, and thus rid himself of all his natural, prior and paramount obligations to preserve his *unalienable* right to liberty, and to appropriate the proceeds of his industry to the maintenance of himself and his family. We deem it not probable that any person of mature years and sound mind, will contend that any free citizen in this community, can become a *slave* in virtue of his own contract: yet, however better the condition of a *slave* is, than that of an imprisoned debtor, there are no reasons which can be urged against such a contract, which would not equally apply against any contract, the breach of which would be followed by the loss of personal liberty. And all the reasons which can be justly opposed to the literal fulfilment of the several contracts herein before hypothetically stated, apply with equal force against the justice of the law of imprisonment for debt; which law virtually gives to commercial or business contracts, all the iniquitous effects above mentioned, as fully as if specifically detailed in the agreement between the parties.

And if further argument were required to sustain the judgment of the court against the injustice of the law of imprisonment for debt, or against the contract containing, as before mentioned, express stipulation in accordance with the usual effects of said law, would not the court, in accordance with the concurrent statements of *Puffendorf* and *Blackstone*, further and truly allege, that "the duty of parents to provide for the maintenance of their children, is a principle of natural law: an obligation laid on them not only by nature herself, but by their own proper act in bringing them into the world; for they would be in the highest manner unjust to their issue, if they gave them life, and then abandoned them to perish. By becoming parents, they have entered into a voluntary obligation to endeavor, as far as in them lies, that the life which they have bestowed shall be supported and preserved."

It is indeed justly regarded as a cruel, unnatural, inhuman and immoral act for a parent to abandon his offspring. It would be a libel even on the brute creation, to compare such a parent with them; for they never neglect to obey that common law of nature, which is imposed on all animal creation. But this law, as has been in substance before remarked, would be nugatory, and could not be obeyed, unless those on whom its obligations are imposed, have the free exercise of the powers of body and mind; the only possible means by which the law in question could be complied



with. We here arrive at the same irrefragible conclusion as before, that the rights of personal liberty, in the case before us, are as well defined, as in the case of the laws of self-preservation. Man not having the right voluntarily to divest himself of his natural obligation to maintain and protect his offspring, he cannot rightfully, directly nor indirectly, by contract or compact, with one or more persons, called creditor or government, surrender or alienate his personal liberty, one of the necessary and indispensable means which enable him to fulfil his natural and imperative obligations to maintain his family.

Besides, the rights of helpless offspring to be protected and maintained, are as obvious and as well defined as the obligation of the parent to succor and sustain them. As no person can rightfully make a contract, which, in its express stipulations or in its necessary operation, impairs the rights of persons not parties to it, without their consent: and as the surrender by the parent, of his personal liberty, by virtue of the operation of a contract which he failed by means of inability to fulfil, would divest his family of their right to the proceeds of his labor for their sustenance, he cannot, by contract, evade his obligations to maintain his offspring and protect them in their rights.

And, following out our reasoning on this subject, would not the court also tell the plaintiff, that the contract in virtue of which he claims a right to imprison his debtor, contains stipulations in palpable and direct hostility to the natural and unalienable rights of man, and his natural and moral obligations; and being thus against good morals, it is consequently void? And would it not also with equal truth and justice be said to such plaintiff or creditor, you knew of the existence of those unalienable rights and anterior and paramount obligations, and that the natural disposition to fulfil them, was, in a manner, irresistible; and because in performing the contract for the surrender of his personal liberty to which we are alluding, the debtor must violate natural law, natural and unalienable rights, parental duties and the principles of moral rectitude, the court would adjudge it void so far as its stipulations contravene those rights and obligations.

And here your committee will ask, can the law of imprisonment for debt, enacted, as has been shown, and as will further appear, in the progress of this report, without any rightful or constitutional

authority, and which vests the creditor with power to inflict on his debtor, *honest* and *dishonest* indiscriminately, the full measure of all the miseries before alluded to, and many others not detailed, and in its operation violates, as before stated, natural and unalienable rights, and natural and moral obligations, be otherwise than an unjust, immoral and unconstitutional law?

Having thus sustained the truths, that the right of personal liberty, like the right of life, is natural and unalienable, and cannot be justly yielded as a peace-offering for the *involuntary* non-performance of a civil contract, nor rightfully nor constitutionally impaired, *except for crime*, by any legislative enactments, your committee will continue the further examination of the subject, with reference more particularly to the contents of the memorials which have been referred to their consideration.

Though the memorials are very numerous, and the number of of the subscribers to them very great, and their intelligence and respectability not to be questioned on this occasion; still, those circumstances alone constitute no sufficient authority for the adoption of their proposed measure independently of its intrinsic merits. Were the floor of this House covered knee deep with memorials, subscribed even by a majority of the citizens of this State, the number and the respectability of the memorialists would only, as in the present instance, entitle them and their proposed measure, to a calm, candid and respectful consideration: but the number and respectability of the petitioners would not be sufficient authority for the adoption of any measures which are palpably and demonstrably wrong on principle.

Your committee further state, that they have deliberately inspected the memorials which have been given in charge to them, and find, that although they generally correspond in their prayer for the repeal or modification of the law abolishing imprisonment for debt; yet, the specification of every cause of complaint, and every argument and allegation which constitute their predicate, apply to the details of the law, and reach no farther than the real or supposed defects in its particular provisions, and their operation as they relate to fraudulent debtors; and in no instance within the view or recollection of your committee, is an argument offered which goes to impeach or impair the *principle* of that law: and yet, many of the petitioners ask its total repeal! These circum-



stances, taken in connection with the great variety and contrariety of assertions and opinions contained in said memorials, induce your committee to believe that the *principle* of the law in question, is not generally, and perhaps not sufficiently understood: and this impression, together with the great importance of the subject, and the lively interest excited by it, will doubtless be received as a sufficient apology for having treated on it thus diffusely, and also for any further remarks which may be deemed proper to be offered at the present time.

But this *report*, already much protracted, would perhaps become too voluminous, were your committee to notice and expose the error of every loose allegation, and every vague and unfounded assertion, contained in the numerous memorials which have been referred to their consideration. They have therefore deemed it proper to reply to those only which are considered as the most prominent, the most plausible, and the most often repeated objections to the law against which they are commonly used: and nothing perhaps can better illustrate the truth of these remarks, nor any thing operate more propitiously to the *principle* of the said law, than to exhibit the leading allegations and complaints, which are offered as reasons for its repeal.

With some few exceptions, the memorials in question are printed, and of which there are several sets or editions. Most, or many of them, agree in stating that "experience has shown that the law abolishing imprisonment for debt, does not answer the *benevolent intentions* and expectations of its framers and advocates." What experience has shown this? This law went into operation on the first day of March, 1832: being one year to the present time. These memorials have been coming into this House ever since the first of January, being ten months only from the time the law went into operation. To organize and put in operation in so many and so distant parts of the State, as seems to have been done, a systematic and concerted plan of operations, to get up so many memorials, and to obtain so numerous subscribers, with a view to a sudden and simultaneous rush upon the Legislature, and thus to produce an *effect* before time could be had or means used to counteract it, must have been the work of three or four months at least, leaving six or eight months as the time in which the *experience* spoken of had shown, the law in question did not answer the benevolent intentions of its authors.

Without undertaking to determine the exact amount of credit which ought to attach to the above mentioned allegation of the memorialists, your committee will remark, that several centuries experience has proved the cruelty and injustice of the laws by which *honest, poor, and unfortunate* men were imprisoned, and thus punished and persecuted for not being able to pay their debts.

But what were the *benevolent intentions* of the law in question? It is as clear as common sense, that one of the benevolent intentions of the Legislature in passing the law in question, was to prevent the *poor and honest debtor* from being imprisoned for not doing *that which he would but could not* do. It will not be denied that this benevolent object has been fully attained by the operation of the law. It was doubtless the farther intention of that law to prevent frauds—to discover the property of fraudulent debtors, and apply it to the payment of their debts, and to punish such debtors for such criminal offences. Though it may not have answered these just and benevolent objects, it is no worse on that account than the laws which preceded it. Hence no benefit could result from its repeal as respects fraudulent debtors, while great and inevitable injustice would be done to the poor, the honest and the unfortunate, who are unable to pay their debts. But if the present law has not answered the purposes intended in regard to fraudulent debtors and their property, then alter and amend it in the best manner in which it can be done, without subjecting the innocent to the punishment due only to the guilty.

It is further alleged against the law in question, “that in its operation, it injures *credit*—impairs the credit system, and therefore restricts and embarrasses trade and commerce.”—To which objection your committee answer, that no discreet man will credit to one in whose *honesty* or in whose ability to pay, he has *no confidence*. If the *honesty* or *ability* of the *creditee* should be doubted, no prudent man would voluntarily become his *creditor* because of his power to *imprison* in the event of an attempted fraud by the *debtor*. It follows then that *character* and *property* are the true and only basis of mercantile credit, and that the power to imprison the debtor constitutes no part of the *consideration* of the contract or agreement between the parties.

The misfortunes of the debtor is a common hazard to both the contracting parties. The *ability* of the insolvent, is the amount of the property he may happen to possess: which, when given up to his

creditors, he fulfils his original undertaking to the full extent of its meaning; and the deficiency of the debtor's property to pay all his debts, is the measure of the misfortunes of the debtor, which by the original understanding of the parties falls to the share of the creditors.

The *moral turpitude* of the debtor begins where his *honesty* ends: and it is only *then*, that he becomes justly obnoxious to punishment. If he attempts to withhold his property from his creditors, or to secrete it with a view to evade the payment of his debts, he ceases to be an *honest* debtor, becomes a *criminal*, and ought to be prosecuted and punished "by due process of law," according to the provisions of the Constitution in *criminal* cases.

If, however, the law abolishing imprisonment for debt, shall, in its operation, tend to *limit credit* and *restrict trade* to those only who are *honest* and *able to pay*, it will eventually not only *improve credit* and *favor trade* by placing both in a more healthy state, but its consequent *moral influence* will be greatly beneficial to the community. But to allow honest, unfortunate men to be imprisoned in order to keep up their *credit*, and in effect to enable rogues to run in debt, is not only sanctioning the *oppression* of the *one* and the *villainy* of the other, but is virtually sacrificing the *unalienable rights* of personal liberty at the sordid shrine of avarice, and savors strongly of trafficking in human flesh.

In another printed edition of the memorials, to which there are many subscribers, it is gravely urged as an objection to the present law, that "it is *oppressive* to the *poor* and *honest*"—that "*the honest laboring man who has no friends and no credit*, must, with his family, often be distressed"—that "the only remedy existing is in the *pleasure of the rich, who are the only medium through which the comforts of life are obtained*"—that "*the RICH know not who to trust*"—and that "the *inability of the* rich creditor "*to discriminate between the rogue and the honest man, makes the present law oppressive to all*. Thus the *honest man who depends on his industry for a livelihood, is compelled by the operation of this law to suffer*" !!! The antithesis of all which, and the remedy proposed to obviate the alleged causes of complaint is, to repeal the present law—give to the rich the power to imprison at their *pleasure*, "the poor, honest, laboring man, who has no friends and no credit, and who has to depend on his industry," and of course his personal liberty, "for a livelihood;" and then "the rich, who are the only medium through

which the comforts of life are to be obtained," will give them *credit*, honest and dishonest, whether able to pay or not: for "the fear of imprisonment," say the memorialists, "is a stimulus to industry," and though imprisonment destroys the ability to labor, still, if "the poor laboring man, who depends on his industry for a livelihood—who, though *honest*, has no friends and no *credit*, and whose family is often thereby distressed, shall fail" through "*inability to pay*," the *rich* ought to have the power to imprison *all*, for "the rich knowing not who to trust, cannot discriminate between the rogue and the honest man," and therefore being so disqualified to judge who ought and who ought not to be punished, they *modestly* ask for a repeal of the existing law, that *all debtors*, whether honest or fraudulent, may be made subject to condemnation; not that thereby *mercy* may be extended to all, but that *all* may be alike liable to be visited with vengeance.

Does *commerce* require such means for its support? Will *trade* best thrive under such iniquitous practices? Will *commercial credit* become extinct, unless sustained by the power to imprison alike the honest and dishonest? Is such *injustice* and oppression the *basis* of the *credit system*? Is not the *honesty* and *ability* of a debtor a sufficient security for the payment of his debts? Must he also pledge his person bodily, and agree to be forced from his family, and covenant to violate or suspend his natural, prior and paramount duties and obligations, in order to qualify him to participate in the benefits of the *credit system*? Is this the way in which "the honest, poor and industrious laborer, who has no friends and no credit," is to obtain "the comforts of life" from the "rich," and will they not give *credit* to an honest man on any other or better terms?

Are *creditors* all honest and good men, and are all *debtors* fraudulent? Are not the *creditors* of some persons, also the *debtors* of others? And are they all *honest* as creditors and dishonest as debtors? To assume that all debtors, able or unable, who happen not to pay their debts, are villains, and to empower their creditors, at their pleasure, and without responsibility, to treat them as such, with a view thereby to render them worthy of mercantile *credit*, is a kind of logic, which your committee trust the Legislature will not be willing to adopt: nor will they be more inclined to repeal the existing law, as a means of relieving the "poor, honest and industrious laboring man, who has no friends and no credit," from

the alleged "oppressive operation" of the law in question, and again leave them in the power of those who, however inclined to mercy, acknowledge that they "do not know how to discriminate between rogues and honest men;" and therefore ask the Legislature to pass a law to relieve them from the legal obligation to do so, and also from all responsibility for any unrighteous exercise of the power which they crave.

Can there be offered more conclusive and insurmountable objections to the *repeal* of the existing law, than are furnished by the allegations of the memorialists? Can there be a more solemn and impressive admonition against vesting irresponsible power in the hands of those who disclaim their capability for a righteous exercise of it, and who indiscreetly betray the disposition again to use it for the same purposes for which formerly it was wont to be applied?

In many of the memorials under consideration, it is alleged that the law in question "*encourages rogues, and enables knaves to escape.*" If such are the effects of this law, it must be owing to some defect in those provisions of it which relate to *fraudulent debtors*, and not to those provisions which protect the poor and honest debtor from imprisonment. If the provisions of the law as they relate to fraudulent debtors and their property, are defective, and it is probable they may be so, we say again, alter and amend them: but do not, with a view to punish fraudulent debtors, withdraw the protection which the Constitution and the law in question were intended to give to all men who shall have done no wilful wrong.

But does this law "encourage rogues and enable knaves to escape?" Rogues are *first encouraged* by giving them *credit*, and are prompted by the advantage thus given them, to resort to any practicable means to avoid payment and to *escape* punishment. Why not then destroy the whole *credit system*, when such are its immoral effects? Why not go back to the *original sin*, and strike at the root of the evil; and by legislative enactments forbid, under pain of *imprisonment*, any person to *encourage rogues* by giving them *credit*, by which means they are also incited to evade the provisions of the law abolishing imprisonment for debt? As objectionable as the proposed law would be, it would be a far more efficient and appropriate preventive against "encouraging rogues" by giving them credit; and would be also a measure of greater justice than it

would be to repeal the existing law, and again involve the innocent and guilty in one common fate; lest, forsooth, some of the guilty might escape! It is a maxim which is recognized in the judgments of both *mercy* and *justice*, that "it is better that an hundred guilty should escape, than that *one* innocent person should be punished." The memorialists however seem to have adopted the reverse of this maxim as the basis of the *credit system*: and to hold, as a cardinal principle of trading morality and justice, that all debtors, who, from whatever cause, do not pay, shall be, by law, treated as fraudulent, and made liable to imprisonment, and abandoned to the mercy and justice of their prosecutors, who allege that they will not give *credit* to a poor man, however honest and distressed, unless they shall have the power to imprison him at pleasure: yet with that power in their hands, will give *credit* both to rogues and honest men; because, as they acknowledge, they know not how to discriminate between knaves and honest men! And thus it is, in truth, that the law of *imprisonment for debt* influences the extension of the *credit system*, through which rogues obtain credit with more facility, and are thus more encouraged to run in debt, and commit fraud, under the old, than they can do under the existing law.

But, say the memorialists, "the present law *encourages* rogues to commit fraud by *concealment* of their property and INABILITY TO PAY!" Rogues cannot *conceal* their property under any provision of this law with more facility than they could do before it was enacted: and should it be repealed, and rogues and honest men be imprisoned as before, rogues would still be rogues and conceal their property, and escape as readily and cheat their creditors, after as before imprisonment. Besides, the regarding of "INABILITY TO PAY" as a fraud, or as *evidence of fraud*, and good cause for incarcerating the *poor*, the *honest* and the *unfortunate* in prison as *criminals*, strikingly illustrates the impropriety of repealing the existing law; inasmuch as it not only indicates the use that will be made of the power asked for, should it be again vested in those who attach so little value on the personal liberty of a fellow citizen as to imprison him as a criminal, because of his "*inability to pay!*"

In some of the memorials under consideration, it is alleged, that "imprisonment for debt was not abolished on account of the *horrors of a prison*, but because it savored of BARBARISM. It is a fact,"



say the memorialists, "IT DOES SAVOR OF BARBARISM; but he who gives up his property can save himself from it," that is, from such barbarous imprisonment, "by means of the insolvent laws !!!"

Your committee are of opinion that the present law abolishing imprisonment for debt, is better than the *insolvent laws*; inasmuch as this *prevents* acts of *barbarity*, while the insolvent laws only rescue the victims of barbarous treatment from the power of those who, under the old law, inflicted it, and after the mischief had been done.

If the present law were to be repealed, because rogues sometimes escape through the provisions intended for the discovery of their property, to detect the fraud and punish the fraudulent, why not also repeal all the insolvent laws, because some rogues escape through the door opened for the release of honest poor men, *barbarously* imprisoned barely because of their "*inability to pay?*"

"But," says a learned American orator, "the law of imprisonment for debt, is so unrighteous, so inconsistent, and drags so many evils and so much suffering in its train, that it is often indignantly denounced as barbarous. But such an imputation is a libel on *barbarous nations*. They never incurred the disgrace of such a practice. Neither *Goths*, *Vandals*, nor *Hottentots*, ever had a law to imprison debtors for not doing exactly what they could not do." It is one of the *refinements* of the *arts* and *sciences* of civil government, by which the *innocent* are punished lest the guilty should escape ! It was left for *civilized* nations to discover and enjoy the exclusive "*benefit of the act*" of imprisonment for debt. *Unenlightened and uncivilized savages*, never thought of shutting a man up in prison, and depriving him of the ability to earn subsistence for himself and family, to "*encourage his industry*," and to compel him to pay his debts, whether able or not: and they never laid claim to the discovery of any utility, expediency, humanity, justice, or moral influence, in such an institution. Acts of cruelty and *barbarity* inflicted even on any of the *brute* creation, are deemed in law, *indictable offences*. Are not acts of cruelty and barbarity committed on human *beings* also crimes deserving of punishment under the criminal law ? If a debtor, who defrauds his creditor of his property, merits punishment, does not that creditor equally deserve to be punished, who cruelly and barbarously deprives of his liberty, "a poor, honest, laboring man, who has no

friends and no credit, and whose family is thereby distressed,\* merely because he has been so unfortunate as to become "unable to pay" his debts?\*

In the direct opposition to the admissions contained in the memorials on which your committee last commented, numerous other memorials state that there was "*but little cause of complaint under the old law of imprisonment for debt—that it seldom operated oppressively. That public opinion and the lenity of our fellow-citizens interposed in behalf of honest, industrious debtors*"!

Where the use of insolvent laws if no *honest* and poor debtors had been wrongfully imprisoned? Where the necessity of the numerous statutes which have been enacted from time to time, to *relieve* insolvent debtors, if there existed "*but little cause of complaint,*" and imprisonment for debt "*had but seldom operated oppressively*"? Do not the many legislative enactments which have been interposed to relieve imprisoned debtors, prove that the grievances they were intended to redress, must have been very great and oppressive? Do not the great volume of those remedial statutes furnish a sad commentary on the injustice of imprisonment for debt, and of the danger and imprudence of vesting with the power of imprisonment, those whom interest, disappointment and passion stimulate to apply it to oppressive purposes? The whole history of the law of imprisonment for debt in England and in this State, from the first statute passed on that subject in the 52d year of the reign of Henry III. (1267,) down to the law abolishing imprisonment for debt in this State, bears corresponding and conclusive testimony of the multiform evils and injustice of the law of imprisonment for debt. And your committee have no hesitation in believing that there cannot be found among all the volumes of the English and American statute books, any law, to remedy the iniquitous operation of which there has been so much legislation, and so many laws from time to time enacted.

An English writer, (Burgess,) the author of the most learned work ever written on the subject under consideration, remarks, that "*nothing can be a stronger proof of the inexpediency of imprisonment for debt, than the introduction of those occasional (insolvent) laws, which originated merely from the humanity and compassion of the Legislature for the sufferings of miserable and*

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\* Statute 8th Eliz. c. 2, was enacted expressly for such purposes.



helpless debtors. They originated in a proclamation of Queen Elizabeth; they were continued on the same footing, by the two first princes of the Stuart race, and assumed the form of law in the first Parliament which was held after the death of Charles 1st. After the restoration they became customary; the first which was passed appears as the 22d and 23d of Charles 2d, c. 20. From that period to the present time, (1783,) no less than twenty-four such acts have received the legislative sanction. It appears from this, that on an average, a fresh insolvent law has passed every four years and a half: sixteen of which were made during the reigns of George the 1st, 2d and 3d." He who considers well all these interpositions, and also those which have been from time to time resorted to in this country, must be constrained to acknowledge that the evils consequent on imprisonment for debt, must have been very great and numerous.

As an argument in favor of imprisonment for debt, and as a remedy for the abuse of the power of the creditor to imprison his debtor, the memorialists allege "that public opinion and the lenity of our fellow-citizens interposed in behalf of *honest, industrious* debtors."

This is true; but it is a truth which amounts to the most conclusive argument against vesting power in the hands of those whose abuse of it so constantly and loudly called for the interposition of public opinion in behalf of the honest and industrious poor debtors, to relieve them from the oppressive exercise of that very power with which the memorialists now ask again to be entrusted to them. History informs us that it was public opinion and the humanity of the British common people, which interposed, and obliged the king and Parliament to repeal in succession, and very soon after they were respectively enacted, every statute authorizing imprisonment for debt, because of their incompatibility with the unalienable rights of personal liberty, and the provisions of *magna charta*, by which they were intended to be protected from executive, legislative and judiciary violation. And it was not until many years after the whole of those laws were repealed, that the rival power, avarice and venality of the courts of *king's bench* and *common pleas*, by judiciary management and decisions alone, gradually established, as law, the illegal practice of imprisonment for debt. And it was not until after the lapse of many years, that Parliament ventured by statute 19, Henry VII. c. 9, (1566,) to recognize the *practice* of the courts, and act in concert with their systematic viola-

tion of rights of the people and the provisions of *magna charta*.—The oppression and distress which ensued, and increased, and which was manifested in all its multiform iniquity, again moved public opinion and the feelings of humanity, in behalf of the wretched victims of abused and unhallowed power, and in pursuance of which the reigning sovereign was induced to interpose the before quoted statute, 8th Eliz. to *punish* those, who, as that law stated, “of their malicious minds, and without any just cause, procured their fellow subjects to be greatly molested and troubled by attachments and arrests of their bodies” for debt, or merely on allegation or pretence of debt. This statute not being sufficiently effective to prevent the complicated and accumulating evils of imprisonment for debt, the dictates of humanity and public opinion co-operated to induce another effort to attain the object which the statute just mentioned failed to effect. “Enormous,” says *Burges*, “as was the grievance for which a remedy was proposed by the preceding act, it was but a part of the mischiefs which arose from this oppressive practice, and, consequently, the wholesome operation of the statute, 8 Eliz. c. 2, was extremely circumscribed, and confined to a few of the unhappy sufferers. The jails became daily more crowded with prisoners; the cries of the unhappy still were heard, for the miseries of the people still continued unrelieved. The cries ascended even to the throne: and the monarch was moved to pity the calamities of her subjects, to restore to freedom and to happiness the *honest and industrious*. And on the 20th day of April, 1585, she issued her proclamation, and authorized certain commissioners therein mentioned, “to order and compound controversies and causes between prisoners and their creditors, and *others*” (who were in reality *not* creditors) “by whom they were detained, or in execution.”

This proclamation was the incipient measure which led to the numerous bankrupt and insolvent laws which from time to time have been interposed in favor of the poor and honest debtor: and they furnish conclusive proof of the continued evil operation of the law they were intended to counteract. Although their influence tended to diminish some of the miseries consequent on the law of imprisonment for debt; still the lamentable condition of debtors' jails—the numerous tenantry of those abodes of the wretched—the vices and habits which too often are engendered by tribulation and idleness among the inmates of those mansions of injustice and oppression—the distress of their families and the grief of their

friends, all conspired to prove the insufficiency of insolvent laws as preventives to the unjust exercise of irresponsible power, or as remedies for the evils necessarily connected with, and flowing from imprisonment for debt. "Public opinion," therefore, "and the lenity of our fellow-citizens," (to use the language of the memorialists,) "again interposed in behalf of *honest, poor and industrious* debtors," and induced the Legislature on the 21st day of April, 1831, to lay the axe at the root of the evil, and by the law abolishing imprisonment for debt, totally to divest of power those who *could not discriminate* between the *honest* and the *dishonest*, or who, stimulated by interest, disappointment and passion, *would not* make any just distinction between debtors who *could not* and those who *would not* pay their debts.

And now the Legislature are asked to repeal the existing law, and again to subject the fraudulent and the honest to one common law, thereby in effect to encourage fraud, by thus breaking down the partition wall between vice and virtue.

Shall we be told that "*creditors do not desire to imprison the poor and honest.*" Those acquainted with the history of imprisonment for debt for six hundred years past, and who are aware of the inducements which that law holds out to creditors to imprison debtors, honest and dishonest, with a view to speculate on the grief and the sympathies of their friends, by which to extort money from the pockets of those who owe them nothing, well know what little value can be attached to the remark above mentioned. Besides, if creditors do not wish to imprison the poor and honest debtor, why ask for power to do so, and why make such strenuous exertions to obtain it? What good use would there be in giving power to those who do not mean to exercise it? And where the legislative wisdom in giving power to those who, because they admit the use of it to be unjust, disclaim the intention of using it?

Although your committee do not believe that the Legislature will attempt to disturb the *principle* of the existing law, it will not be deemed out of order to offer some additional observations in confirmation of the foregoing proofs, that to repeal the present law, and leaving in force the law of imprisonment for debt, would be, as it always has been, a violation of the *unalienable rights* of personal liberty, and also of those provisions of the Constitution, which were intended to protect and preserve them.

Before *Magna Charta*, the British kings, who were, as now, regarded as the sovereign source of political authority in England, exercised the uncontrolled, arbitrary and irresponsible power over the lives and liberties of their subjects. The possession and exercise of such power constitutes the monarch an absolute *despot*, and his government an absolute despotism. It was the tyrannical exercise of this power, in violation of the *unalienable* rights of *life* and *liberty*, which caused the barons and the common people, who were alike the subjects and victims of it, to unite in opposition to the king, and obliged him to relinquish the power in question. The record containing the written agreement of the sovereign to abandon the exercise of the power in question, and which was intended to perpetuate the proof of that truth, is known as *Magna Charta*: which among other things provides that "no person shall be deprived of *life*, *liberty* or *property*, without *due process of law*; that no person shall be held to answer for a capital or otherwise infamous crime, unless on presentment or indictment of a grand jury," the "due process of law" in *criminal* cases; that "no person shall be disfranchised or deprived of any of his rights and privileges, unless by the law of the land or judgment of his peers," that is, by virtue of a constitutional law, and the verdict of a jury: and hence, *not* by the caprice, or at the pleasure of a *king* or a *creditor*.

Now, the *People*, who are the sovereign source of political power in our country, have caused those provisions of *Magna Charta* to be incorporated in the Constitution of this State; and that too, for the very purpose of interdicting the exercise of despotic and arbitrary power by any branch of our government, over the *unalienable* rights of *life* and personal *liberty*. And although the right of personal liberty were, as before mentioned, violated by the judiciary courts, and in process of time acquiesced in by other departments of the government of Britain, that *wrong* is no sufficient authority for the existence of the law of imprisonment for debt in this State; inasmuch as the Constitution, when providing for the adoption of some of the laws of England, expressly abrogated and rejected all such as were repugnant to the Constitution; and hence the law of imprisonment for debt never had any legitimate existence in this State, and never can have any constitutional authority while the above quoted provisions of that instrument shall remain, and remain inviolable.

And here your committee will ask, would the Legislature listen one moment to a proposition, couched in express terms, to violate the provisions of the Constitution, or to nullify that palladium of the rights and liberties of their constituents, however many of them might by memorials advocate such measures? Would the Legislature halt one instant in rejecting a proposal to vest the State Executive with the power to imprison at his pleasure any citizen, however free from guile, or however guilty, without any *proof* of its existence? Would the Legislature ever seriously entertain a thought to give to any individuals who may happen to lose their property by means of theft or robbery, the power to imprison the criminal at their pleasure, and without proof of guilt? Would they ever think of vesting the government, or any department or officer in it, with power to punish for murder, treason, or any other criminal offence, without presentment or indictment of a grand jury—without trial—without proof—without the verdict of a petit jury, or judgment of conviction for the alleged or imputed crime? And will not the same provisions of the Constitution—the same “law of the land”—the same rules of common justice, and the same principles of morality which interdict the grant of such power to the government, or to any public functionary, also equally forbid any legislative grant of such unhallowed power to any individuals, or any class of the community?

If to exercise, at pleasure, absolute and irresponsible power, constitutes a king a despot, the like power, vested in a Governor, would attach to him the same character. A government exercising such despotic power would be any thing but democratic or republican: and to vest such power in creditors, without regard to their intelligence, discretion, humanity or honesty, would be still more odious, inasmuch as it would, in effect, be creating *petty despots* in every town and village *rum-hole* in the State; and thus to scatter despotism and misery throughout the land.

Would the Legislature manifest much wisdom, were they to confer office and power indiscriminately on the honest and the dishonest, the intelligent and the ignorant? Ought they not to inquire into the character and capacity of those whom they contemplate to vest even with legitimate and limited power, and who are to be held responsible for the just and discreet exercise of it, and the faithful discharge of their official duties? Do they not inquire, in reference to the proposed incumbent, “is he honest, is he

capable?" And if deficient, in either qualification, would it be wise or just to entrust him with office or with power? Would the Legislature be willing, in express terms, to give to creditors, without regard to their honesty, discretion or humanity, or in the admitted absence of all these qualities, the arbitrary and irresponsible power to imprison, at their pleasure, poor and honest debtors? Would the Legislature be willing to take the responsibility to give, in express terms, to honest and dishonest creditors, the power to imprison, at their pleasure, even fraudulent debtors, without proof that they are so, or without trial to ascertain their guilt, or any chance to prove their innocence; or to defend themselves against the charge of crime? Would the Legislature, by a particular enactment, authorise in express terms, a *fraudulent debtor*, who may happen also to be a *creditor*, to imprison his debtor, honest or dishonest, without proof, or even the pretence of fraud? Would the Legislature, by a separate statute for such purpose, declare, in express terms, that all their constituents should be liable to be deprived of their personal liberty for debt, at the pleasure of any plaintiff, whose oath would not be taken for the value of one cent in proof of his alleged demand? Would the Legislature be willing to enact a law authorising in express terms, *murderers, thieves, robbers, perjured villains, State prison and penitentiary convicts*, who have served their time out, or have escaped from prison or who have got their pardons in their pockets, to imprison, at their pleasure, all their debtors, honest and dishonest, in all cases, without either proof of *debt* or *fraud*? And was not such the law of imprisonment for debt: and would not the repeal of the existing law be tantamount to express enactments, conferring the odious and depotic powers in the cases just mentioned; and thus be, indirectly vesting the same powers, and producing the same consequences, as if specially authorised by separate and express enactments? Surely the blood and treasure of the revolution must have been worse than wasted, and the constitution of the political government of this State, intended to protect inviolate the unalienable rights of the people, must have been a work of useless labor, when laws can be enacted, by which the unalienable rights of personal liberty shall be held on the tenure of the pleasure or caprice of every man, honest and dishonest, who may happen, by any means, to become a *creditor*. And any laws which produce such result, are no better than those would be if enacted for such unhallowed purposes.



In virtue of the preceding and other concurrent considerations, which might be offered, your committee are induced expressly to declare, that they hold these truths too plain, evident and irrefragible, to require further illustration on this occasion, viz: That to *molest* any person—to punish him—to “*deprive him of his liberty,*” or of any other “*right or privilege,*” who shall have done no *wilful wrong*, nor committed any *criminal offence*, would be an act of *cruelty*—a violation of *moral principle*—the benevolent dictates of *humanity*—the plainest rules of common justice—the primary objects of civil government, and the *righteous spirit* of the Constitution of this State. That he who would treat a fellow being in the manner just mentioned, would be a cruel, immoral and unrighteous man. That the law which would authorize such an act, influences the disposition to commit it, and hence would be identified with the iniquitous effects produced by it, and the oppression and misery flowing from it. Such is the character and such are the consequences of any law by which an honest, unfortunate insolvent debtor may be cast into *prison*; the most natural and most certain effects of which are, to add oppression to misfortune, to increase the debtor’s inability to pay—to distress his family and his friends—to excite the natural feelings of self-defence against oppression—resist it by any means most likely to counteract its movements and disappoint its object: the further effects of which are to impair the motives to honesty, and to lessen the disposition to pay—to encourage fraud, by creating and increasing the incentives to commit it; and hence too often to influence and mislead honest men to become fraudulent debtors: and thus imprisonment for debt becomes injurious to the debtor, and useless to the creditor.

And your committee further state, that in cases where fraud shall be proved, and where there shall be evidence sufficient to induce a reasonable fear or probability that fraud is intended to be committed by a debtor against his creditor; the *arrest and detention* of such debtor, as a means and with the view to compel a specific performance of his contract, by the discovery and surrender of his property, to be applied to the payment of his debts, and also with the view to convict and to punish him for the fraud, according to “the law of the land,” in *criminal cases*, is neither unjust in itself, nor inconsistent with the principles and the truths in this report advocated and proved.

And in conclusion, your committee further state, that they have prepared a *bill*, an abstract or synopsis of which is hereunto annexed, so modifying and amending the existing law, as to make it, in the opinion of your committee, more effectual in its operation to *prevent fraud*—more sure to detect fraud and to ascertain when it is intended to be committed, and also more certain to discover and obtain the property of the fraudulent debtor, and apply it to the payment of his debts, than any preceding law which has been enacted for such purposes in this State: which *bill* your committee have directed their chairman to ask leave to bring in, for the consideration of this House, and recommend its adoption by the Legislature.

All which is respectfully submitted.

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*Abstract of the bill entitled "An act further to provide for the arrest and punishment of fraudulent debtors, and for other purposes."*

The bill which the committee report, is framed to meet the objections which are urged against the present law, and to remedy some defects which experience has detected. Without departing from the principle of the act of 1831, which was, to prevent the imprisonment of any citizen for mere inability to pay a debt, the bill endeavors to carry into more full effect another principle of the same act, which was, to compel every debtor to appropriate his property to the payment of his debts; and where probable proof of actual or intended fraud is adduced, to arrest and detain the person of the debtor so long, and no longer than may be necessary to reach his property. The following are the general features of the bill intended to accomplish this purpose.

Where there has been any fraud in contracting the debt, where property is concealed, or fraudulently disposed of, or is intended to be fraudulently assigned, the debtor may be held to bail by an order of the judge of the court in which the suit is brought, and execution may issue against his person, as in actions for wrongs. The defendant in such suit may be exonerated from arrest and imprisonment by assigning all his property, except that exempt from execution. All dispositions of his property between the time of his arrest and his executing the assignment, are prevented by re-



quiring him to account for and pay, or secure the payment, of the full value of all property so disposed of, except such as shall be necessarily expended in the support of himself or his family. If the defendant refuses to obtain his discharge in this manner, and is committed to prison, he may be required to execute an assignment, within a reasonable time, with the same guards against a disposition of his property. If he still refuses, the proper officer is authorised to execute an assignment for him, and he can be discharged only by proceedings under some of the existing insolvent laws: and such refusal is declared a misdemeanor.

In suits for the recovery of fifty dollars or less, when similar proof of actual or intended fraud, as before mentioned, is adduced, an attachment may be issued to seize the property of the defendant, including such as may be found on his person: and where the plaintiff or the defendant is a non-resident of the county, or where the defendant is about to depart from the county with intent not to return, or where the plaintiff is in danger of losing his demand, a warrant may be issued at the same time with the attachment, returnable at the same time. Creditors having judgment for fifty dollars or less, entitled to an execution, may have one against the body of the defendant, on making proof of the same actual or intended fraud, before specified. Defendants arrested on warrants, or imprisoned on executions, are to be discharged on executing an assignment of their property, with similar guards to those before described against any disposition of their property between the arrest and assignment. If they omit to do so, they may be required by an order of a judge to execute an assignment, and on their refusal or neglect, such officer is authorised to execute it. And they are to be discharged from prison only by proceedings under the existing insolvent laws.

Assignments made under the provisions of this bill, relate to the time of the arrest of the defendant, except as against purchasers in good faith and without notice. Assignees are to pay the expenses of creditors in proceedings against their debtors, and are to make dividends among those at whose suit the defendant was arrested.

Persons having judgments upon which executions shall have been issued against the property of the defendants, and returned unsatisfied, in whole or in part, may apply to the proper officer for an order requiring the defendant to assign his property, and upon

his refusal or neglect to do so, the assignment may be executed by such officer, and the defendant is to be committed until he obtains a discharge under some of the existing insolvent laws.

A provision is inserted to prevent the arrest of any defendant for any claim for the price of any ardent or spirituous liquors sold in a quantity less than five gallons at one time. And there are several sections to correct errors in the act of 1831.

In order to carry into effect these provisions, much detail has been unavoidable, in order that parties and officers may clearly and distinctly know their rights and duties, without waiting for the construction of the courts, at an expense and delay, frequently destructive of all the objects of a suit,



**IN ASSEMBLY,**

**March 1, 1833.**

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**REPORT**

**Of the select committee, on the petition of sundry inhabitants of the town of Westchester.**

Mr. Lockwood, from the select committee to which was referred the petition of the freeholders and inhabitants of the town of Westchester in the county of Westchester, praying for the passage of a law altering the manner of working the roads in said town,

**REPORTED:**

That the inhabitants of said town are assessed twelve hundred and thirty-five days in each year, for the purpose of working the roads in said town. Notwithstanding the number of days so assessed are more than sufficient to keep the roads of said town in perfect order, still, owing to very many of such days being assessed against persons who are transient and personally irresponsible, and also owing to the work which is actually performed having been done in an improvident and unskilful manner, the roads are but little benefited by the immense assessment. Another objection to the present manner of keeping the roads in repair, is the time of year when it is usual and necessary to repair the roads, is that which most interferes with the work essentially necessary to be attended to upon their farms. The number of days, at the legal commutation of 62½ cents per day, amounts to the sum of seven hundred and twenty-two dollars and fifty cents. The taxable inhabitants are willing to relieve all transient and irresponsible persons from contributing to the repairs of the roads, and are desirous to have the amount above specified collected from themselves in money, as other taxes are collected, to be expended in repairing the roads, by employing proper persons to take charge of and keep the roads in order.

Your committee are of opinion, that in the manner asked for by the petitioners, the roads will be kept in much better order, and with less inconvenience to the inhabitants, than the present manner; and they also believe that an experiment, to be made by the town of Westchester, may prove beneficial to the whole State, by inducing to a general alteration of the existing laws, should this change prove practically beneficial: They therefore ask leave to introduce a bill.

**IN ASSEMBLY,**

**March 4, 1833.**

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**ANNUAL REPORT**

**Of Israel Sloan, jr. an Inspector of Beef and Pork in  
the county of Onondaga.**

*To the Honorable the Legislature of the State of New-York.*

The undersigned, an inspector of beef and pork for the county of Onondaga, respectfully reports, that he has inspected during the year ending December 31st, 1832, seven hundred and forty-six barrels of beef and pork, assorted as follows:

165	barrels mess pork, .....	value per barrel	\$13 00	\$2,145 00
241	" prime pork, .....	" "	10 50	2,530 50
53	" mess beef, .....	" "	7 00	371 00
287	" prime beef, .....	" "	5 00	1,435 00
				<hr/> \$6,481 50

My fees for inspection \$74.60, after deducting expenses.

ISRAEL SLOAN, Jr.

*Inspector of Beef and Pork  
for the county of Onondaga.*

*Pompey, January 28, 1833.*



**No. 224.**

**IN ASSEMBLY,**

**March 4, 1833.**

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**REPORT**

**Of the committee on claims, on the petition of Orson Smith.**

Mr. Russell, from the committee on claims, to which was referred the petition of Orson Smith, heir at law of David Smith, a revolutionary soldier, praying additional compensation for the bounty lands of his said father, over and above the \$800 received by him under the law of 1831,

**REPORTED:**

This claim, from its antiquity, is entitled to respectful consideration. From the 6th Jan. 1796, down to the year 1831, almost every successive year, it has been pressed upon the consideration of the Legislature, and as often rejected, it is to be presumed, for want of evidence to sustain it, either by the committee to which it has been successively referred, or by that branch of the Legislature to which favorable reports have been made. The embarrassment under which this claim labored, was the want of that kind of evidence which could be deemed reasonably certain that the ancestor had enlisted to serve during the war, as the documentary evidence which was to be found in the office of the Secretary of State, was silent upon that subject; hence the reasonable and legal conclusion that he had not so enlisted. The petitioners were then under the necessity of countervailing this legal presumption by oral testimony. This, it seems, they were not able to do, to the satisfaction of the Legislature, until the year 1831. About that time, an ancient manuscript copy, of a register of the officers and soldiers of the continental army serving in the regiments of this State during the war of the revolution, was discovered, and deposited in said Secretary's office; this document has been recognized by the govern-



ment as authentic, and by it the right of the soldier, David Smith, was established. This evidence overcame the difficulties under which the claim had hitherto labored, and a law was then passed giving to the heirs of said David Smith, the sum of eight hundred dollars, upon the report of the committee on claims in that year, which was "to include as well the original value of the land, as all claims for interest," and be, as expressed in the act, in full satisfaction of the claim of the said heirs for bounty lands, for services in the revolutionary war. This petitioner has established his claim to the benefits of that law, and the money has been paid by the Treasurer to the petitioner and another individual, who claimed a right to participate.

The petitioner now asks that his claim may be reviewed, and that justice may be dealt out to him with a more liberal hand. He solicits the passage of an act giving to him, among other things, the original value of the 500 acres of land, to which he claims the soldier to have been entitled, and the interest thereon from the year 1796; that being the time when the claim was first exhibited. This the committee apprehend is wholly inadmissible. It is believed by the committee that throwing open this claim again to legislative action, could be attended with no beneficial consequences to the petitioner. His *right* was established to the satisfaction of the Legislature when the act of 1831 was passed; and if it should again be opened, he could do no *more* than establish that *right*. He does indeed add other testimony, and interposes new claims, and probably advances other arguments, but all grow out of, and depend upon, the original claim, and are merely cumulative, tending only to illustrate and enforce the original demand.—This law, too, of 1831, is based upon a principle long since established, and practised upon by the government. In 1827 the rule was established which had partially previously prevailed, when considering claims of the character of this, in this branch of the Legislature. It was then said that, "as the value of the land has much increased since the time of the original balloting for soldiers' bounty lands; and as we conceive these applicants can hardly claim interest in a case where so long delay has been occasioned, principally by their own neglect, the committee would recommend that in no case should more than two hundred acres be patented to any one claimant." From that time hitherto, the committee do not find that any greater quantity has been given. In the present improved condition of the country, the estimate of value averages about

four dollars per acre, and it was most likely that these considerations led to the conclusions which were adopted in 1831. If, then, this applicant is entitled to an increased sum, equal justice would seem to require that such as have been closed upon the same principle, should also receive additional compensation. In the case referred to, we have the moving cause of the rule laid down. The improved condition of the country, the increased value of the land, the remisness of the applicant in establishing his claim, or his misfortune arising from his inability to do so, and the promptness with which all these claims have been satisfied, whenever clearly established; all these were considerations which must have actuated the Legislature in prescribing the aforesaid rule. Under this view of the subject, the committee apprehend that if upon principle, a rule of action was now for the first time to be established for the settlement of these claims, it would not vary essentially from the one which now prevails.

The committee are of opinion that the claim for interest cannot be entertained. This, with the original demand, was before the Legislature, and prominently presented, when the act of 1831 was passed. It was then acted upon, and whether the applicant then received more or less than we might now think the case would have warranted, it is believed there is not so great a disparity as to authorize its being again agitated on that account. If each successive Legislature were to disregard the acts of their predecessors, it will readily be perceived that little regard would be paid to the enactments of either. Stability, uniformity and decision, should characterise legislative action, as well as judicial proceedings; and an essential departure from this rule would soon impair the public confidence in either. It is obvious that no rule of law or practice in equity exists, which would sanction this claim, if the contest was between two individuals. The *right* of the petitioner was never established until the newly discovered evidence in 1831; and the extent of that right never ascertained until the law of that year was passed. It may have been unfortunate for the individual that he was not able before to exhibit the evidence of his demand, but surely that was not the fault of the government. If upon the original balloting, a given lot had been drawn to the right of this soldier, a different rule of compensation might with some propriety have been adopted. But here was a mere equitable right of location, upon such lands as the government may have, when the right is established; if from negligence or misfortune it is delayed

until those laws are exhausted, it would seem to be an act of liberality, when a direct appropriation from the treasury is made to extinguish such claim.

When a claim, then, of this description has been deliberately and solemnly closed and sanctioned by the acts of the respective parties to it, the committee apprehend it would be neither wise, just nor expedient, again to open it, unless for causes which do not exist at the present case.

From the manner in which this claim has been pressed, the importance of the principle involved, and the propriety of establishing a uniform practice in matters of this kind, as far forth as can properly be done, the committee have thought that an examination somewhat in detail was due to the subject.

Possessing these views, the committee have come to the conclusion that the prayer of the petitioner ought not to be granted, and therefore offer for the consideration of the House the following resolution:

*Resolved*, That the prayer of the petitioner, Orson Smith, ought not to be granted.

**IN ASSEMBLY,**

**March 4, 1833.**

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**REPORT**

**Of the select committee on the petition of the Roman Catholic Benevolent Society.**

Mr. McKeon, from the select committee to whom was referred the petition of the Roman Catholic Benevolent Society, of the city of New-York,

**REPORTED:**

The institution was incorporated by an act of the Legislature of this State, dated April 15, 1817. The wish of the applicants, as stated in the preamble of the act, was a grant of corporate powers to a number of persons, residents of the city of New-York, who, together with their associates, had formed a society for the humane and laudable purposes of assisting and relieving the poor, and of protecting and educating orphan children. Since that period the members of the society, including different sects, have, in accordance with the object of their creation, through various difficulties and embarrassments, supported an asylum in which children deprived of their natural protectors, find not only a home, but ample means of instruction. Depending solely on the contributions of individuals, it has existed until the present time. A large and commodious building has been erected, and every exertion made to afford succour and relief to the destitute and helpless orphan. From the period of its foundation, the number of children has been gradually increasing, and now the establishment contains about one hundred and fifty orphans of both sexes, relying entirely for sustenance on the subscriptions to said society, and the contributions of a charitable community.

As appears from the representations of the petitioners, the pestilence which visited our land during the past season, and in its desolating course swept thousands from the city of New-York, has increased the number of applicants for admission into the asylum, and trusting to the bounty and generous feelings of their fellow citizens, the society did not refuse to assume the protection of the unfortunate, during a period of general calamity. The increase of the number of children has augmented the expense of, and embarrassed the institution so much, as to render it necessary to use the most strenuous exertions to sustain it. Daily applications are made for admission. The present building will not admit of an increase of the number of inmates, and the members of the society are desirous of extending it, if their means would permit.

The committee cannot but recommend to the Legislature this invaluable institution. Into its doors are admitted children of tender age, without distinction of creed, sex or country. Under its fostering care they are not only supported but instructed. By its means many are saved from destruction, and prepared to discharge the duties which devolve on every individual in the community—to become useful to themselves and to the country. The order, neatness, and entire management of the asylum, have obtained for it a high reputation in the city of New-York.

The Orphan Asylum Society, whose building is situated in a different section of the city from that in which the establishment of the Roman Catholic Benevolent Society is located, was incorporated on the 7th day of April, 1807, as the preamble states, on the petition of a number of ladies, who had formed a society for the very humane, laudable and charitable purpose of protecting, relieving and instructing orphan children. Since that period, the asylum has continued to dispense its blessings, and now contains a large number of children depending upon it for support. While this institution has received from the State for a long time a share of its bounty, until within the last year the Roman Catholic Benevolent Society, with the same object in view, has not participated in any portion of the public bounty. By an act of March 30th, 1811, the sum of \$500 was appropriated out of the auction duties, for the benefit of the Asylum Society, until otherwise directed by the Legislature. By the act of April 21st, 1828, renewing the charter of the society, all the laws relating to it were re-enacted, and the appropriation continued. The asylum has received, as

appears by the Comptroller's accounts, the sum of eleven thousand dollars from the duties. When the distribution of the common school fund was altered, and the power of designating the establishments entitled to a share was transferred to the common council of New-York, the Orphan Asylum Society received its proportion, while the Roman Catholic Benevolent Society did not obtain any share. While one received a large amount, the other did not receive any from the common school fund. The Roman Catholic Benevolent Society at length made application to the common council for a share of the fund. After a long and scrutinizing investigation of the subject, the Roman Catholic Benevolent Society was designated as one of the institutions entitled to a portion of the common school fund, and thus placed on an equality with the the Orphan Asylum Society. Although it was contended that a difference existed between the two societies, the most severe comparison proved that they stood on the same basis, had the same object, and were administered on similar principles. In the report made to the common council by the committee to which this matter was referred, and from the pen, it is believed, of a distinguished public officer in the city of New-York, it is stated that the committee could not see why the Orphan Asylum Society should be continued, and the Roman Catholic Benevolent Society excluded from a participation of the benefit of the fund. Within the last year the amount of money to which the Roman Catholic Benevolent Society was entitled has been paid, and the following extract from the report of the commissioners of schools for the city of New-York, shows what their opinion is of the character of the institution, and the propriety of the policy pursued by the common council. After referring to the Orphan Asylum Society at Greenwich, the report proceeds to state that "The Orphan Asylum of the Roman Catholic Benevolent Society has, as the commissioners understand, no means for the support of their school, other than what for the past year was allowed by the ordinance of the corporation for its support, and the charitable donations of the persons interested in its welfare. The scholars are under the tuition and careful supervision of sisters of charity, who have charge of the school, and exhibit proofs of a most zealous care in training them up to usefulness. Children thus situated, necessarily restrained within the precincts of the institution in which their lot has placed them, not able to avail themselves of the schools opened by the Public School Society, are here provided for by persons charitably

assuming the relations towards them, not only of tutors, but of parents also, till they arrive at that age which justifies their protectors in placing them out to trades, or such employments as they manifest an aptitude for; and while the children are within the age entitling them to their quota of the school fund, the commissioners can *but applaud the determination* of the corporation to place both of these *institutions alike under* the benefits to be derived from the fund."

This document has been annexed to the annual report of the Superintendent of Common Schools, (Assembly Documents, No. 17,) and at present upon the tables of the members.

In consequence of the burthens imposed by the late epidemic, on both societies, it is believed a small amount has been appropriated to them by the city. As far as the municipal authority is concerned, it will be perceived that both institutions have been placed on the same level, and are considered as equally entitled to protection. The object of the petitioners is to receive from the State the same favor. While other charities in the city have received from the public treasury a share of the funds, the Roman Catholic Benevolent Society has not received any appropriation. Unaided by legislative support, it has struggled with many obstacles, until it has reached its present elevated position among the numerous charitable associations of the city, and become not only a credit to its supporters, but also to our metropolis,

By the act of April 15, 1817, the sum of \$23,500 was annually appropriated out of the auction duties to the Hospital, the Economical School, and the Orphan Asylum Society. This amount was excepted from the operation of the provision of the new Constitution. As the committee is informed by the Comptroller, the Economical School received \$500 annually, until the year 1824, since which period the amount has not been drawn by any person on account of that institution. On reference to the laws, it appears that the Economical School was founded by an act dated March 16, 1810, incorporating certain persons who had associated for the purpose of establishing a school for the education of children of French emigrants, resident in the city of New-York, in the English language and literature. The sum of \$1,000 was directed to be paid out of monies allotted to the support of the poor in said city, and \$500 every year thereafter until otherwise directed. The act of 1817 directed the annual appropriation to be paid out



of the auction duties, together with the same amount paid to the Orphan Asylum Society. The presumption is, that as the money has not been drawn since 1824, the institution has been discontinued. Nor does it appear from the books in the office of the Comptroller, that this amount has been appropriated from the auction duties to any other society. Under these circumstances, the committee have concluded that an appropriation of \$500 to the present petitioners annually, out of the same fund from which the Orphan Asylum Society now receive its share, will not only be performing an act of charity, but of justice. The committee have made inquiry as to the fate of the Economical School, but have not as yet received any information. Should, however, it appear hereafter that the amount received by that school has been diverted to other purposes, the committee cannot but recommend an appropriation out of the treasury, from funds not otherwise appropriated. Their desire is to place the Orphan Asylum Society and Roman Catholic Benevolent Society on equal footing. The renewal of the charter of the former was until the year 1863, and the former annual appropriation of \$500 continued by the re-enactment therein of all laws relating to the society. While, therefore, the State of New-York has been generous to one it becomes her to be just to the other. Orphan Asylums should be cherished in every section of the State. While affording protection and instruction to the destitute, and relieving the public of a large share of expense and responsibility, they exhibit an evidence of the liberality and philanthropy of the community in which they may be situated.

In accordance with the views of the report, the committee have instructed their chairman to ask leave to introduce a bill for the benefit of the petitioners.





**IN ASSEMBLY,**

**March 5, 1833.**

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**REPORT**

**Of the Attorney-General, on the bill to amend the charter and vest additional powers in the trustees of the village of Cazenovia.**

The Attorney-General, to whom was referred by the Assembly, the bill, entitled "An act to amend the charter and to vest additional powers in the trustees of the village of Cazenovia," with instructions to report "whether, in his opinion, the proposed election of a recorder with the powers therein conferred, is a violation of the constitution concerning the election of justices of the peace," respectfully submits the following

**REPORT:**

The fourth section of the bill abolishes the office of the clerk of the village of Cazenovia, and authorises the inhabitants of the village to elect a recorder, who shall hold his office four years, and shall perform all the duties now required by law to be performed by the clerk; "and who shall also have and exercise all the powers now vested by law in any justice of the peace in said county of Madison, and when associated with any two justices of the peace of said county, may form a court of special sessions of the peace, with the same authority now vested by law in courts of special sessions of the peace in this State."

The village of Cazenovia, though incorporated by law, still remains a part of the town of Cazenovia for all the purposes of electing town officers. The Legislature cannot authorise the election of five justices of the peace in that town, nor can the inhabitants residing within a particular district or section of the town be empowered to elect justices. Neither of those measures are proposed

by the bill in question; and there is nothing in the Constitution to restrain the Legislature from instituting new courts of concurrent jurisdiction with those held by justices of the peace, nor from empowering other officers to perform the same duties that are now performed by justices of the peace. Amendment to Art. IV. Sec. VII.

The mode in which the office is to be conferred, is subject to objection. With the powers granted by this bill, it will be a judicial office; and the Constitution declares, that "all judicial officers, except justices of the peace" shall be nominated and appointed by the Governor and Senate. Art. IV. Sec. VII.

Respectfully submitted.

GREENE C. BRONSON,  
*Attorney-General.*

*March 5, 1833.*

**IN ASSEMBLY,**

**March 7, 1833.**

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**REPORT**

**Of the select committee, on the “Act to incorporate the New-York Academy of Inventions.”**

Mr. Cromwell, from the select committee, to whom was referred “An act to incorporate the New-York Academy of Inventions,”

**REPORTED:**

That they have examined the same, and believe that such an institution would be well calculated to foster that inventive genius in the arts, for which our people have already become distinguished.

It is intended as a repository of specimens and models, of newly invented implements of husbandry, improvements in machinery, and all other productions, to which the ingenuity of man may be usefully directed.

Your committee are informed and believe that many useful inventions gain slowly upon the favor of the public, from the want of a proper *place* of exhibition. They are now not unfrequently placed in the open streets, in the city of New-York, where they may attract the idle crowd, but give little opportunity for the admirers or patrons of the arts to judge of their utility.

Your committee have also examined the charter of a similar institution in Great Britain, and read the communications of many distinguished and scientific individuals in that country, testifying to its great usefulness.

With these facts before them the committee do not hesitate to solicit for the act the favorable consideration of the House. They  
[Assem. No. 228.]

have made some slight amendments to the same, and see no reason why it should not become a law. They therefore recommend that it be engrossed.

**No. 230.**

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**IN ASSEMBLY,**

**February 20, 1833.**

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**REPORT**

**Of the select committee, on the petition of Alansing Crabb.**

Mr. Norton, from the select committee to which was referred the petition of Alansing Crabb, praying for the passage of an act authorising him to change his name,

**REPORTED:**

That it appears by the petition, that several of the relatives of the petitioner have had their names changed from Crabb to Harrison: For which reason, and for others also which your petitioner prefers not to name, he is desirous of having his name changed from Crabb to Harrison. Your committee are of the opinion that the prayer of the petitioner is reasonable, and ought to be granted, and ask leave to introduce a bill.



**No. 231.**

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**IN ASSEMBLY,**

**March 8, 1833.**

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**REPORT**

**Of the committee, on the petition of sundry manufacturers of salt, in the town of Salina.**

Mr. Eastwood, from the committee on the manufacture of salt, to which was referred the petition of sundry manufacturers of salt in the town of Salina, praying for a repeal of so much of article fourth, chapter ninth, title tenth, part first, of the Revised Statutes, as authorises the superintendent of the Onondaga salt springs, to collect from the manufacturers, two mills per bushel, for pumping salt water,

**REPORTED:**

That the petitioners set forth, that since the reduction of the duties upon imported salt by the Congress of the United States, the unusual high duty of twelve and a half cents per bushel, upon all salt manufactured in this State, (being from one hundred to one hundred and fifty per cent upon the first cost of the article,) is of itself onerous, in addition to which, the superintendent is authorised by law to collect from the manufacturer, two mills per bushel for pumping salt water, and they pray for a repeal of said law.

Your committee are of opinion the prayer of the petitioners is reasonable, and ought to be granted, and they ask leave to bring in a bill for that purpose.

[Assem. No. 231.]





**No. 232.**

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**IN ASSEMBLY,**

**March 8, 1833.**

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**COMMUNICATION**

**From the Comptroller, relative to the Economical  
School in the city of New-York.**

**COMPTROLLER'S OFFICE, }**  
*Albany, March 8, 1833.*

**TO CHARLES L. LIVINGSTON, Esq.**  
*Speaker of the Assembly.*

**SIR—**

Herewith is transmitted a report, made in obedience to a  
resolution of the Assembly of the 5th instant.

I have the honor to be,

With great respect,

Your obedient servant,

**A. C. FLAGG.**



# REPORT, &c.

COMPTROLLER'S OFFICE, }  
*Albany, March 8, 1833.* }

The Comptroller, to whom was referred by the Assembly, a resolution requiring him to furnish a statement of "the amount of moneys paid to the Economical School of the city of New-York, and whether the said school is now in operation."

## RESPECTFULLY REPORTS:

That an act was passed on the 16th of March, 1810, incorporating "A school in the city of New-York, for the education of the children of French emigrants resident in the city, in the English language and literature." One section of the act of incorporation provides, that the Treasurer of this State shall, out of the moneys allotted and appropriated to the support of the foreign poor in the city of New-York, pay to the treasurer of the Economical School, the sum of one thousand dollars; and after the year 1810, the annual sum of five hundred dollars, until the Legislature shall otherwise determine.

By virtue of this act, the following sums have been paid to the Economical School from the State treasury, to wit:

Paid in 1810,.....	\$1,000
“ from 1811 to 1825, both inclusive, \$500, for fifteen	
years,.....	7,500
	<hr/>
Total,....	\$8,500
	<hr/>

The last payment was made on the 28th of March, 1825.

On referring to the reports from the commissioners of schools in the city of New-York, it is ascertained that the "Economical School" participated in the common school fund previous to and until the year 1825. In that year the school reported 93 scholars, and its share of the school money was \$126. The report from the

commissioners of schools for 1826, does not embrace the Economical School, although the report does contain a list of all the church and charity schools which had theretofore participated in the school money, except the Economical School. This report was made anterior to the period when the corporation cut off the "Church Schools," and some other schools, from a participation of the School Fund; and the fact that the Economical School was omitted in the return which contains all the other charity schools, renders it probable that this school had ceased.

All which is respectfully submitted.

A. C. FLAGG.

**IN ASSEMBLY,**

**March 8, 1833.**

**ANNUAL REPORT**

**Of the Brooklyn Savings Bank.**

Pursuant to the act incorporating the Brooklyn Savings Bank, the managers beg leave to present their sixth annual report, as follows:

They have received during the period from the 1st of January, to the 31st of December, 1832, from 544 depositors, the sum of \$30,330.24, viz:

In January,	from.....	41 depositors,.....	\$2,115 00
February,	" .....	33 " .....	1,676 00
March,	" .....	40 " .....	1,498 00
April,	" .....	35 " .....	1,470 00
May,	" .....	58 " .....	3,162 00
June,	" .....	79 " .....	6,025 00
July,	" .....	43 " .....	2,186 00
August,	" .....	35 " .....	1,377 00
September,	" .....	34 " .....	1,706 63
October,	" .....	48 " .....	3,182 61
November,	" .....	40 " .....	2,318 00
December,	" .....	58 " .....	3,614 00
		<u>544</u>	<u>\$30,330 24</u>

Of which are, new accounts,..... 150

Re-deposits, ..... 394

— 454

The sum of \$15,727.77 has been paid to 220 depositors, 80 of whose accounts are closed.

The amount invested in Brooklyn village stock, is ..	\$1,000 00
“ “ bonds and mortgages, .....	41,000 00
And in cash uninvested, .....	26,353 12
	<hr/>
	\$68,353 12

The deposits have been made by persons of the following professions and occupations:

Baker, .....	1	Mason, .....	1
Blacksmith, .....	1	Marines, .....	2
Bookbinder, .....	1	Milliner, .....	1
Carpenters, .....	5	Milkman, .....	1
Cabinet-maker, .....	1	Nurse, .....	1
Chair-maker, .....	1	Ropemakers, .....	4
Clerk, .....	1	Sailor, .....	1
Cooper, .....	1	Servants, .....	31
Confectioner, .....	1	Laborers, .....	26
Cook, .....	1	Seamstresses, .....	2
Cloth dresser, .....	1	Ship carpenters, .....	3
Engineer, .....	1	Stone cutter, .....	1
Farmers, .....	7	Shoemakers, .....	2
Fishermen, .....	3	Tailor, .....	1
Gardner, .....	1	Tailoresses, .....	3
Glass blower, .....	1	Tavern-keeper, .....	1
Grocers, .....	2	Teacher, .....	1
Hatter, .....	1	Watchman, .....	1
Harness maker, .....	1		

Of whom are the following descriptions, viz:

Minors, male, .....	10	Trust accounts, .....	5
Minors, female, .....	4	Widows, .....	7
Single women, .....	2	Colored associations, .....	2

And in the following amounts, viz:

From \$1 to \$5 .....	60	From \$80 to \$90 .....	13
5 to 10 .....	75	90 to 100 .....	26
10 to 20 .....	88	100 to 200 .....	47
20 to 30 .....	74	200 to 300 .....	19
30 to 40 .....	86	300 to 400 .....	5
40 to 50 .....	57	500 to 600 .....	3
50 to 60 .....	19		
60 to 70 .....	17		
70 to 80 .....	5		
			<hr/>
			544

All of which is most respectfully submitted.

A. V. SINDEREN, *President.*

JAMES S. CLARK, *Secretary,*  
*Brooklyn, March 5, 1833.*











**IN ASSEMBLY,**

**March 7, 1833.**

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**ANNUAL REPORT**

**Of M. G. Woodbury, an Inspector of Beef and Pork  
for the county of Monroe.**

*To the Honorable the Legislature of the State of New-York.*

In obedience to the laws of this State, regulating the inspection of provisions, &c. requiring inspectors to lay annually before your Honorable Body all their official acts in that capacity, I, as an inspector of beef and pork in the county of Monroe, beg leave to

**REPORT:**

I have inspected and put up in shipping order, from the first day of January, 1832, to the first day of January, 1833:

5,611 barrels mess beef.

1,488 " prime beef.

305 " hams.

66 " cargo beef.

23 " tongues.

---

2,446 total barrels beef, estimated value, \$12,115 00

369 total half barrels extra mess beef,. 1,476 00

972 barrels mess pork.

1,770 " prime pork.

---

2,742 total barrels pork, estimated value, 27,420 00

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**Total No. barrels, 5,557, estimated value, ..... \$41,021 00**

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Legal fees for inspection, salting, packing or re-packing, nailing and coopering 5,188 barrels, at 25 cents,.....	\$1,297 00
369 half barrels, at 20 cents,.....	73 80
	<hr/>
	\$1,370 80
Expenses,.....	762 43
	<hr/>
	\$608 37

All with exception of a few barrels of pork and beef hams, were shipped to the Canada markets, previous to the close of navigation in December, 1832.

M. G. WOODBURY,  
*Inspector.*

*Rochester, January 1, 1833.*

**IN ASSEMBLY,**

**March 9, 1833.**

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**MEMORIAL**

**Of John I. Vanderkemp, agent of the Holland Land Company, and Wilhem and Jan Willink, of Amsterdam, and Joseph Fellows, agent of the Pulteney estate.**

*To the Honorable the Senate and Assembly of the State of New-York.*

The memorial of John I. Vanderkemp, agent of the Holland Land Company, and also of Wilhem and Jan Willink, of Amsterdam, and of Joseph Fellows, agent of the Pulteney estate,

**RESPECTFULLY SHEWETH:**

That the bill now before the Assembly for the taxation of land contracts, and securities for the purchase moneys of land belonging to persons not resident within the State, appearing to your memorialists to be objectionable in principle, and very oppressive in its application to the estates which they represent; and apprehending moreover, that if enacted into a law, it will, in its operation, prove highly injurious to the great body of settlers in the western counties, your memorialists most respectfully submit to the Legislature a brief statement of their views in relation to this new and important feature in our system of taxation.

Moveable property attaches itself to the person of the owner. However dispersed, it constitutes one collective fund, by the amount of which a man's capacity to contribute towards the public exigencies of the government, under which he lives, is ordinarily measured, and of which, at his death, the distribution is regulated alone by the laws of the country of his domicil. Hence, in most,

if not in all nations, taxes on personal estate are collected in the country where the owner resides, and are made to reach the whole of his means, whether at home or abroad. Such is the principle adopted in our own State, in relation as well to citizens as to resident foreigners possessing capital out of the State; and if, as in the case of stocks in incorporated companies, instances are to be found in which the personal property of non-residents is subjected to taxation, these constitute exceptions to the general rule, and rest on their own peculiar circumstances.

As in the application of this general principle, non-residents possessing credits within this State, are liable to taxation upon the value of such credits, at the places of their domicil, the effect of the proposed law must be to subject them at one time to taxation at two places on the same property.

But if the debts due to non-residents be a just object of taxation, it is respectfully submitted that the immediate operation of a law will deprive the proprietors of the estates under the agency of your memorialists, of the benefits of the provisions of the act respecting taxation, by which citizens are liable to assessment only upon the surplus of their personal property, after deducting their just debts.

The proceeds of the largest portion of the Pulteney estate, under a decree of the English court of chancery, are now in a course of application to the payment of debts to a very large amount; and the proprietors of the estate of the Holland Land Company are supposed to be largely indebted; but without information from Europe, it will not be in the power of your memorialists to avail themselves of the provisions of the act above mentioned, by which the surplus of the personal property of their constituents would be only liable to taxation.

By the revolutions and protracted wars to which the Dutch nation has of late years been exposed, her citizens have also been subjected to great vicissitudes and calamities, and the losses from these causes, by the members of the Holland Land Company, have been greatly aggravated by the purchase of American lands: so that it may be truly said of the individuals interested in both estates, that if made liable to taxation for their personal property in this country, they will greatly need the benefit of that protecting

principle of our system by which the tax is made to operate only on the excess of that property beyond the amount of debts due from the proprietors of it.

And here your memorialists beg leave further most respectfully to suggest, that the claim of their constituents to the benefit of this principle is conceived to rest also upon the public faith of the State of New-York.

The Legislature, in the exercise of its sovereign power, had an undoubted right to deny to aliens the privilege of purchasing and holding lands within this State; but the privilege, when granted, carried with it the same rights in regard to the enjoyment of the lands, as are possessed by our own citizens, except as these rights were qualified and restrained by the terms of the grant.

The provisions of the act enabling aliens to purchase and hold lands within this State, go to prohibit the reservation of rents, and to prescribe a certain time and place for the recording of conveyances; but these are its only conditions. In all other particulars, the alien land holders were placed on the footing of our own citizens, and upon this the plain and obvious construction of the act, both the Dutch and English proprietors entered on the system of selling out their lands upon credit, and in small parcels.

In prosecution of this system, a large amount of debts has been created, growing out of the necessities of the settlers, and the considerate indulgence of the foreign proprietors; and your memorialists would most respectfully submit, that there are various considerations connected with the hardship of their situation, which deserve the serious consideration of the Legislature.

The loans made by capitalists in Holland, to aid the United States during the revolutionary war, being reimbursed soon after the organization of the federal government under its present Constitution, and in consequence of the troubles then commencing in Europe, the pursuits of commerce offering no encouragement for the employment of these funds, the Dutch merchants, under the influence of their early attachment to this then infant republic, determined to invest them in American lands. The tract of country now called the Holland purchase, was bought in 1792 and 1793, but the Indian title was not extinguished till the year 1797; soon after which the whole tract was explored and carefully surveyed



into small parcels. The settlement of it was commenced in the year 1800, upon the system of long credits to actual settlers; a system which, whilst calculated to postpone for a long time the reimbursement of the capital employed in it, was supposed to be well adapted to the then circumstances of the country. The English estate was opened for sale upon the same plan, but at an earlier period of time.

The actual expenditure of the Holland company upon their Genesee lands, including interest, amounted in the year 1800, to 4,392,000 dollars. Those of the English proprietors upon the Pulteney estate, in the year 1801, when the title was transferred to Sir William Pulteney, including interest, to about 2,000,000 dollars.

To encourage and facilitate collections, it has for many years past been the practice of the agencies to receive cattle and produce in payment of debts, at prices much beyond those current in the market; nevertheless the whole average annual nett receipts for principal and interest, during the last thirty years, have amounted, in regard to the Dutch estate to less than two per cent, and in regard to the English estate to less than three per cent per annum on their respective expenditures, above specified; but a large proportion of their receipts were on account of capital, the amounts annually received for interest being far less than those above stated.

The balance of the whole expenditures on both estates, including simple interest, computed in one case from the year 1800, and in the other from the year 1801, amount in each case, after deducting all remittances, to a sum more than double the price at which the estates could now be converted into money.

In the meantime the settlements have advanced with a steady and uniform step, and an immense region, then covered with forests, is now occupied by a large and flourishing population.

Whilst individual prosperity and the power and resources of the State have been thus in a regular course of advancement, no corresponding advantage has resulted to the foreign landholders. Theirs is an account only of deep and irreparable losses.

Those losses have been increased by their liberality and forbearance towards the settlers,

Several years since, the Holland Land Company entered upon a general system of reduction in their land debts, by which the amounts were to be regulated by the fair price of the land at that period, without regard to the improvements. In carrying into effect this system, upwards of thirteen thousand contracts have been renewed and modified, and a large additional number remain to be renewed and modified upon the same principle. The whole amount of reductions resulting from the operation of this system, exceeds \$1,000,000.

The agent of the Pulteney estate has also made large reductions on the debts due in Steuben and Allegany counties, and extended the credit on the debts thus reduced, so as to make them payable by easy instalments.

These facts, whilst they vindicate the two agencies from all reproachful imputations, serve to show that the debts proposed to be made the objects of taxation, are of a very peculiar character; that their final recovery is precarious—the period of it altogether uncertain; that the interest on these debts is not paid with any sort of punctuality; and, in fine, that they constitute an anomalous species of personal property, which, in relation to money or solid securities, has no fixed or definite value: in further proof of which, your memorialists might refer to the conditions upon which a cession of the entire estates of the Holland Land Company, real and personal, was offered to the Legislature some years since, and to more recent negotiations for the same object with private capitalists.

The same facts serve further to illustrate the extreme difficulty of ascertaining the true value of these debts, as objects of a just and equitable system of taxation. It is notorious that in all new settlements, a large proportion of the land contracts are surrendered; that in many cases the lands are abandoned, and that in others, the conditions of the contracts are wholly unfulfilled by the settlers; whilst in these cases, the debts prove to be worthless and irrecoverable, the taxes on the land are, for the most part, left unpaid and returned to the Comptroller's office, where the landholder is compelled to pay them, to prevent a sale of the land.

The amount of taxes on sold lands, so returned and paid by the agents of the Holland Land Company, have averaged, during the six years preceding 1828, more than \$6,000 per annum, and so far

as, under the like circumstances, the landholders may hereafter be subjected to taxation on debts represented by unexecuted contracts, it is obvious that they will be exposed to a double tax on the same identical property. Your memorialists do therefore most respectfully submit, that if the debts due to these agencies shall, notwithstanding the considerations above suggested, be considered as just objects of taxation, the tax ought to be applied to the net receipts of the estates annually remitted to the proprietors, and not to the nominal amount of the securities.

Your memorialists entertain a confident belief, that the practical operation of the projected tax will be injurious to the general interest of the State, by inducing landholders to require on sales a considerable proportion of the purchase money in advance, and thus to check the progress of new settlements.

Its necessary effects on settlers who have already purchased, must also be prejudicial, inasmuch as it will be made the interest of the landholders to abridge the system of credits, to enforce more rigorously the payment of outstanding purchase moneys, to cancel and annul contracts which have become forfeited by failure of payments, or, where further time is granted for the payment of a debt, to make the future tax on it, as in equity it ought to be, a charge on the debtor, for whose accommodation the extension may be granted. It is evident that whatever, in these particulars, may be the changes in the administration of land agencies, the inconveniences must more or less fall on the settlers.

There is yet another consequence of this measure, which may be referred to, rather as a probable than a necessary one—the sale and assignment of these debts to residents at such prices as can be obtained for them.

How far the settlers may be benefitted or injured by such transfers, it is not for your memorialists to conjecture; but they do not hesitate to avow their firm belief, that there has hitherto been no land agency within this State, conducted with a more sincere and uniform regard to the necessities and best interests of this numerous and meritorious class of citizens, or with more extensive losses and sacrifices on the part of the landholders, than the two agencies represented by your memorialists. The very large sums gratuitously expended by each in the making of roads, in the erection of bridges, in the construction of court-houses and churches, and in

promoting religious and academical instruction, attest the truth of this remark. The whole amount of the expenditures of the Holland Company for these objects and for taxes, and in agency charges since the year 1800, exceeds the sum of \$1,500,000. Their taxes alone, (augmented by valuations in some cases amounting to double the price which the agents would gladly accept for them,) have exceeded, upon an average of the last thirty years, \$15,000 per annum, drawn from a property entirely unproductive, and which, in progressive appreciation, can furnish no sort of equivalent for this continued drain. The expenditures of the Pulteney estate have been much in the same ratio. If to these heavy burdens be superadded a tax on the avails of the land, it will bear on both estates with a weight the most grievous and oppressive.

In conclusion, your memorialists, invoking a calm and cautious deliberation on this important subject, confide the high and delicate interests involved in it to the justice, the good faith, and the wisdom of the Legislature.

All which is respectfully submitted.

JOHN J. VANDERKEMP,  
*Agent of the H. L. Company.*  
JOSEPH FELLOWS,  
*Agent of the Pulteney Estate.*

*Albany, March 9, 1833.*



**IN ASSEMBLY,**

**March 9, 1833.**

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**RÉPORT**

**Of the Commissioners of the Land-Office, on the petition of James Wickham.**

*To the Honorable the Legislature of the State of New-York.*

The Commissioners of the Land-Office, on a reference from the Assembly of the petition of James Wickham, respectfully submit the following

**REPORT:**

The petitioner alleges that he purchased of the State a "lot of land, or a part thereof known as lot No. 27, Crumhorn Mountain tract, and that the Commissioners of the Land-Office have conveyed a part of said lot (so bought and paid for by the petitioner,) to one Benjamin Pierce, and therefore do not feel authorized to convey to the petitioner the whole of the land so bought and paid for."

It will be necessary, in order to do justice to the State, as well as to the petitioner, that a complete history of all the transactions at the public offices, in relation to the survey, sale, division and conveyance of lot No. 27, should be presented to the Legislature. The document appended to this report and marked A, contains statements of the accounts of Benjamin Pierce and James Wickham, the original purchasers of lot "M<sup>2</sup> (now No. 27) in the Crumhorn Mountain tract," as those accounts appear on the books of the Comptroller's office at the time of dividing the lot between them; annexed to which document are two maps or diagrams marked B and C, which exhibit the offsetts made at the Comptroller's office, and the boundaries of the release from Wickham to Pierce, in 1821. The other transactions in connection with the

sale and conveyance of this lot, so far as they can be ascertained from the public offices, are as follows:

*First.* On the 9th of May, 1821, Benjamin Pierce and James Wickham purchased from the State lot M<sup>a</sup> in the Crumhorn mountain tract, in the county of Otsego, for the sum of \$597, and received the usual certificate of sale from the Surveyor-General for the same. The said tract of land was surveyed by B. Gilbert, by order of the Surveyor-General, in the year 1813, and according to his field book and map of said tract, the said lot is bounded as follows: "Beginning at the N. E. corner of lot L<sup>a</sup> and runs south 80° east, 50 chains, to a stake and stones in the line of Franklin patent; then N. 60° E., 36 chains and 50 links, to a stake and stones; then N. 30° west, 48 chains, to a stake and stones; then N. 67° W., 23 chains, to a stake and stones; then S. 4° east, 21 chains; then S. 62° west, 11 chains, to the place of beginning, containing 199 acres.

*Second.* On the first day of October, 1821, the said James Wickham assigned and transferred to the said Benjamin Pierce 125 acres of the said lot, bounded as follows: "Beginning 70 rods from the southeasterly corner of said lot, and runs north 30 degrees west, 122 rods; thence north 67 degrees west, 23 chains; thence south 4 degrees east, 21 chains; thence south 62 degrees west, 11 chains; thence south 30 degrees east, 130 rods; thence north sixty degrees east, 36 chains and 50 links, to the place of beginning." (See map B.) This conveyance is on file in the Secretary's office.

*Third.* It was found that several of the lots in the said tract were inaccurately surveyed by the said Gilbert; therefore, on the 16th of April, 1822, an act was passed for the relief of the purchasers of land in the said tract. By this act the Surveyor-General was authorised to cause all such lots to be re-surveyed, and true descriptions of them to be filed in the Secretary's office, and the Commissioners of the Land-Office were directed to issue letters patent to the purchasers respectively, according to such descriptions, when the conditions of sale should be fulfilled; and the Comptroller was to liquidate their accounts according to the contents of their lots found on a re-survey of them as aforesaid.

Pursuant to this act, the Surveyor-General caused a re-survey of the said tract to be made by David L. Sayre, and according to his

field book, which was filed in the Secretary's office on the 7th of January, 1825, the said lot purchased by Benjamin Pierce and James Wickham is distinguished as Lot No 27, and is bounded as follows: "Beginning at a stake and stones in Allen Wickham's east line, and runs thence north  $62^{\circ}$  east, 13 chains, to a stake and stones; thence north  $4^{\circ}$  east, 18 chains and 66 links, to a hemlock tree; thence S.  $67^{\circ}$  east, 19 chains, to a stake and stones; thence S.  $56^{\circ}$  east, 13 chains, to a white-oak tree; thence south  $30^{\circ}$  east, 44 chains, to the line of Franklin patent; thence south  $60^{\circ}$  west, 41 chains and 61 links, to a stake and stones; thence N.  $30^{\circ}$  west, 56 chains and 50 links, to the place of beginning, containing 239 acres," making an addition of 40 acres to the said lot.

*Fourth.* On the 26th of April, 1825, the following parcel of said lot was set off at the Comptroller's office, to the said Benjamin Pierce, and was paid for in full, as appears by the Comptroller's certificate, to wit: "Beginning at a small birch staddle, standing near a large hemlock tree, being James Wickham's north corner, and runs from thence north  $30^{\circ}$  west, 24 chains ten links, to a stake and stones; thence south 60 degrees west, 41 chains 61 links, to a stake and stones; thence south 30 degrees east, 24 chains 10 links, to a stake and stones; thence north 60 degrees east, 41 chains and 61 links, to the place of beginning, containing 100 acres." (See map A, marked Benjamin Pierce.) The said Pierce made application for a grant of the said 100 acres, and produced the Comptroller's certificate setting off the same, and also the said deed from James Wickham to him, the said Pierce, dated Oct. 1, 1825, and the Commissioners of the Land-Office, on examining the said documents, ordered a grant of one hundred acres to said Pierce, on the 7th of October, 1826, and the same was granted accordingly.

*Fifth.* On the said 20th of April, 1825, the Comptroller set off the following parcel of said lot to the said James Wickham, to wit: "Beginning at a stake and stones on the west line of Franklin's patent, corner of lot 26, and runs from thence north 60 degrees east, 41 chains and 61 links, to a stake and stones, corner of lot No 28; then N. 30 degrees west, 17 chains and 50 links, to a hemlock tree; thence south 60 degrees west, 41 chains and 61 links, to a stake and stones; thence south 30 degrees E., 17 chains and 50 links, to the place of beginning, containing 72 acres, 3 roods and 8 perches." (See map C, James Wickham's part.) Benjamin



Pierce assigned this piece of land to the said James Wickham, by an endorsement on the Comptroller's certificate, dated Oct. 3, 1826. And Wickham, having paid in full for the same, it was granted to him on the 7th of October, 1826.

The preceding statement shows, that lot No. 27 was purchased by Pierce and Wickham in May, 1821; in October of the same year, and before the re-survey of the Crumhorn mountain tract, Wickham conveyed to Pierce all that part of the lot described under the second head, and represented on map B, according to the bounds of the lot as then understood by the parties, and as described in the Surveyor-General's certificate, given to Pierce and Wickham jointly; in the year following this conveyance of Wickham, a law was passed, authorising a re-survey of the whole tract, which added forty acres to this lot, from lot No. 26, as may be seen by reference to map B. The field book of David L. Sayre, who made the new survey, by which the 40 acres were added to lot No. 27, was not filed in the office of the Secretary of State, until the 7th of January, 1825: although the addition of the 40 acres was ascertained in Dec. 1823, and 120 dollars were added to the account of Pierce and Wickham, as stated in the joint account, document A. By reference to the original receipts, it is ascertained that up to the time of the filing of the re-survey in the Secretary's office, (Jan. 1825,) all the payments on the bond of Pierce and Wickham, had been made by Benjamin Pierce. The amount of these payments is given in document A.

On the 26th of June, 1824, David Gurney and Timothy Crandell were called upon by Pierce and Wickham, to make out a valuation of their respective parts of lot No. 27. In their oath the appraisers recognize the "new survey of No. 27;" and their appraisement is made out in the following words, to wit: "We, the above named David Gurney and Timothy Crandell, have appraised the above described lands, and appraise the value of James Wickham's 72½, 8 rods, at six dollars per acre, exclusive of buildings; and Benjamin Pierce's 166 a. 32 rods, we appraise at four dollars per acre."

On the back of this appraisal, and dated the same day, and witnessed by the same person, is an agreement between Pierce and Wickham, of which the following is a copy, to wit:

“ We, and each of us, do agree, and it is considered by and between us, that each is to pay one equal half of the original bond given to the State by us for the within described lands; that the payments made on the land are to be credited to the within named Benjamin Pierce, on his part.” This is signed by James Wickham and Benjamin Pierce.

This appraisal was attached to a survey of Wickham's 72 acres, embracing such share of the 40 acres added by the new survey as lay between his part of the lot and No. 26. There was also a map on the same paper, on which the line of the offset was marked, and Wickham's part put down at 72-3-08, and the residue, or Pierce's part, at 166-0-22. These two amounts are put together on the same paper, and added up at 239 acres. The original lot, according to Gilbert's survey, it will be recollected, contained 199 acres; the addition of 40 acres, makes the 239 acres; which latter number of acres seems to have formed the basis of the division, where the parties agreed upon the offset, and agreed that each should pay one-half of the original bond.

On the 8th of April, 1825, Benjamin Gurney and *James Wickham*, were sworn to appraise “ two pieces of land in Lot No. 27, in the Crumhorn mountain tract, which has been surveyed by David L. Sayer, and dated 2d April 1825.” The appraisement states as the judgment of the appraisers, that “ the west one hundred acre division is worth five dollars per acre; the sixty acres four dollars.” This appraisement is signed by James Wickham, the petitioner, and Benj. Gurney: and the survey referred to as having been made on the 2d of April, 1825, and attached to this appraisement, is the identical description given under the *fourth* head of the transactions connected with this lot, and is the description given in the patent to Benjamin Pierce.

The offsets of 72 acres to James Wickham, and 100 acres to Benjamin Pierce, were both made at the same time, on the 20th of April, 1825. At this time, Wickham must have been present at the Comptroller's office, for on that day he signed a writing drawn up by the clerk who made the offsets and entries in the Comptroller's books. This writing is upon the same paper which contains the agreement between Pierce and Wickham in 1824, that each should pay one half of the bond before given, and is in the following words: “ Besides applying all the payments as above mentioned to the part of Benjamin Pierce, I hereby authorize the Comp.

troller to credit him with the sum of twenty dollars and fifty-three cents, and to charge the same to my part of the lot. April 20, 1825.

“JAMES WICKHAM.”

At the time of making the offsets, separate accounts were opened with Pierce and Wickham, and each was charged with one-half of the original bond, as stipulated in the written agreement before referred to. Pierce was credited on his separate account with all the payments made by him, and also with the \$20.53 authorized by Wickham to be charged to his account.

What inducement Mr. Wickham had to take 72 acres for his share, and agree to pay one-half of the original bond, the Commissioners have no better means of ascertaining, than they have of finding out what induced him to authorize a credit to Pierce, and a charge to himself of \$20.53 at the time of the offset. These were matters of private arrangement between the parties. The only claim set up by Mr. Wickham, is, that he ought to have an equal share of the forty acres added to the lot by the new survey, and that as his 72 acres includes only 8 acres of the addition, he is entitled to 12 acres more to make up his half of the 40 acres. And this he claims on the ground that his release to Pierce in 1821, and before the new survey, did not cover any part of the 40 acres, and embraced only 125 acres, as set forth on map B. It is most certain, however, that when Wickham, in 1825, took an oath that he would “faithfully and impartially appraise” all the remainder of lot 27, deducting his 72 acres; that he considered himself divested of all interest in the lot beyond the 72 acres: And although he had assigned only 125 acres to Pierce, he took into his estimate 166 acres when he was called upon, as a disinterested person, to estimate the relative value of different parts of the 166 acres. Connected with Wickham’s appraisement, also, was a survey and description of the 100 acres granted to Pierce, and which is the same description on which the offset was made, and the patent granted. Add to this, that Wickham was present at the Comptroller’s office when the offset was made, and when there seems to have been a general adjustment of the accounts between him and Pierce, and there seems to be left no reasonable ground for a claim or for complaint on the part of the petitioner.

As a matter of justice to Mr. Wickham, it is proper to add, that he presented his claim to the Commissioners of the Land-Office,

some day last week; and from a partial examination of the subject, and admitting his relation that he had paid half of the original bond, and consequently had paid for one-half of the 40 acres added by the new survey, and had received only 8 acres, the Commissioners were induced to believe that the petitioner had paid for 12 acres of land which had been patented to Pierce without the assent of Wickham; and under this impression, Mr. Wickham was given to understand that he had a just claim, in the opinion of the Commissioners, or of such of them as he conversed with, but that the Board had no power to grant him the relief to which he might be entitled. This conversation probably induced Mr. Wickham to present his petition to the Legislature. An examination of the original papers in the public offices has placed the whole matter in a different light, and satisfied the Commissioners that the boundaries of the offset and patent to Pierce were made with the assent and knowledge of Wickham, (although not embraced in his conveyance to Pierce before the re-survey,) and that all the transactions at the public offices in relation to lot No. 27, have been correct, and according to the intentions of the parties, as expressed in their written requests, now on file in the Comptroller's office.

All which is respectfully submitted.

A. C. FLAGG, *Comptroller*.

GREENE C. BRONSON, *Att'y Gen.*

JOHN A. DIX, *Secretary*.

SIMEON DE WITT, *Sur. Gen.*

A. KEYSER, *Treasurer*.

*Albany, March 7, 1833.*



# DOCUMENTS.

( A. )

*Lot M 2, now 27, Crumhorn Mountain Tract.*

This lot was originally sold to Benjamin Pierce and James Wickham, on the 9th May, 1821, for.....	\$597 00
Deduct amount paid down,.....	75 00
	<hr/>
Bond given for balance,.....	522 00
1823.	
Dec. 1. Amount added for 40 acres annexed to this lot from lot 26, by the new survey, .....	120 00
	<hr/>
Total,.....	\$642 00

1825.

April 25. A part was set off to James Wickham, of 72a. 3r. 08p. as shewn on map A, with the papers authorizing which, was an agreement between Pierce and Wickham, that all the payments should be credited to Wickham's part; and that each part should be charged with one-half of the bond to the State, with interest thereon from its date; accordingly, the two accounts were stated in the Comptroller's books as follows:

Amount charged to Wickham, April 25, 1825,	
principal,.....	\$356 30
Interest, .....	24 39
	<hr/>
	\$380 69

Amount of payments by Pierce, being the payments above mentioned, to be credited to his part:

	<i>Int.</i>	<i>Prin.</i>
1822, May 21,.....	\$15 00	
" Sept. 24, .....	28 00	\$3 00
1823, Feb. 26,.....	13 15	86 85
" March 11, .....	1 05	18 95
1824, July 7, .....	54 13	15 87
	<hr/>	<hr/>
	\$111 33	+ 124 67=236 00

Amount charged to Pierce, April 25, 1825,.....	161 03=161 03
	<hr/>
	397 03

On the same day that the new account was set off to Wickham for 72a. 3r. 8p. a discharge was given of 100a. of Pierce's part, as shewn on map C, and in conformity to a survey thereof presented to the Comptroller for that purpose.

[Assem. No. 236.]



# **PROCEEDINGS**

**OF THE**

**NEW-YORK**

**STATE AGRICULTURAL SOCIETY,**

**HELD AT THE CAPITOL,**

**IN THE CITY OF ALBANY,**

**On the fourteenth and fifteenth days of February, 1833.**

**Together with the**

**ACT OF INCORPORATION,**

**And the**

**COMMUNICATIONS READ BEFORE THE SOCIETY.**



**ALBANY:**

**PRINTED BY WEBSTER AND SKINNERS,  
At their Bookstore, at the Elm Tree corner, in State-Street,**

---

**1833.**





# STATE AGRICULTURAL SOCIETY.

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At a meeting of the **NEW-YORK STATE AGRICULTURAL SOCIETY**, held at the Capitol, in the city of Albany, February 14, 1833.

**AMBROSE SPENCER**, *Vice President*, in the chair.

**JESSE BUEL**, *Secretary P. T.*

Mr. **BUEL**, in behalf of the committee appointed to report on the subject of an Agricultural School, read the following report, which was accepted :

The committee appointed at the first meeting of the Society, to report a plan for an Agricultural School, with an estimate of the expense necessary to establish and put the same into operation ; together with their views of such an establishment, beg leave to submit the following

## REPORT :

The main objects of the proposed school are, to impart to agriculture the efficient aid of the sciences, and to furnish it with the best models of practice ;—to teach, simultaneously, in the period of youth devoted to academic studies, the practical operations of husbandry, and such branches of useful knowledge as may tend to elevate its character, and increase its products. The *plan*, therefore, should embrace,—

1. A **FARM**, of sufficient extent to afford room for the diversified operations of tillage, cattle and sheep husbandry, and of orcharding and gardening—on a scale that will admit a fair comparison being made of crops, of breeds of cattle and sheep, and of the varieties of hardy fruits ;—and sufficiently diversified in soil and surface as to admit of satisfactory experiments :

2. A **FARM HOUSE** and **FARM BUILDINGS**, which may

serve as models of convenience, taste and economy, and accommodate the head farmer and his assistants :

3. A SCHOOL BUILDING, for the accommodation of teachers and scholars :

4. A LIBRARY and PHILOSOPHICAL APPARATUS :

5. STOCK and IMPLEMENTS for the farm : and, .

6. SHOPS for the construction of farm implements and machinery, for the use of the farm, for the illustration of mechanical science, and to afford practical instructions to the pupils in mechanics.

These items of expense, which may be considered preliminary and permanent, together with the cost of the furniture required for the school building, are estimated at \$7,500.

1. The plan of Education might embrace,—Practical instructions in the various operations and labors of the farm, the garden, the orchards and the shops: and,

2. The study of the natural sciences generally, mathematics, mechanics, chemistry and drawing, so far as these may conduce or become subservient to agricultural improvement,—together with such other branches of knowledge as will qualify the students for the higher duties of civil life,—such as will fit them to become independent electors, discreet jurors, faithful magistrates, and wise legislators.

As prerequisites to admission to the school, the pupils might be required to possess a good common school education, to be at least fourteen years of age, and of good moral character. Four years might constitute a course of studies ; and the internal regulations and police of the school might be conformed, in a measure, to those of our military academy.

A department of the farm should be set apart for experiments in husbandry, and the details and results of these experiments accurately registered. The garden and the orchard should contain all the good hardy fruits, and specimens of all hardy plants, that may be useful on the farm, in the arts, in commerce, or that are ornamental,—in order that the relative value of different species and varieties may be determined, and their mode of culture, and process of curing,

taught to the pupils,—and the approved kinds furnished for public distribution.

To put the School into operation there will be required,—a principal, professors and teachers,—a steward and servants, for the school ;

A manager, laborers and assistants for the farm ;

Machinists and assistants for the shops ; and

A practical and scientific manager for the garden and orchard.

The number of officers and assistants which will be required, must depend upon contingencies : and of course the committee do not pretend to state with precision, in their estimate, the amount of their salaries and pay.

The proceeds of the school and the farm may be expected to increase for some years, and will materially depend on the terms of tuition. The committee have assumed, as reasonable data, that the number of pupils would average 200, and the average produce of the farm amount to \$4,000 per annum, for the first four years. Upon the assumed data, then, the estimate would exhibit the following result.

*Preliminary Expenses.*

Farm of 400 acres, at \$30,	12,000	
Farm buildings,	6,000	
School buildings,	25,000	
Library and apparatus,	7,500	
Stock and implements,	3,150	
Shops and tools,	1,250	
Furniture for school,	1,150	
Incidental,	1,500	
	<hr/>	
Total preliminary expense,		\$57,550

*Annual Expense.*

Salaries of officers and teachers of the school,	5,100
Do. of manager and laborers on farm,	1,000
Do. of machinists,	600
Do. of gardner,	300

Expense of boarding 200 pupils at \$1.50		
per week,	14,400	
Servants for the establishment,	2,000	
	<hr/>	23,400
Estimated annual expense,		<hr/> \$80,950

*The Annual Receipts are computed as follows :*

Board and tuition of 200 pupils, at \$150 per ann.	\$30,000
Produce of farm,	4,000
	<hr/> \$34,000

Thus the total expense of establishing the school, and of maintaining it the first year, is estimated at \$80,950, and the income, after the first year, it is believed, will be amply sufficient to defray all expenses. Yet to meet contingencies that may occur, and to make up for any deficiency in the estimate, the committee think that an appropriation of \$100,000, the surplus to be invested for the benefit of the institution, will ensure usefulness and permanency to the school, and prove amply sufficient to meet all its wants. This sum, if equalized among the population of the state, would operate as a tax of about *five cents* to each inhabitant.

Your committee have thus complied with the requisitions of the society, in submitting the plan of an Agricultural School, and an estimate of the expense necessary to establish and put the same into successful and permanent operation. It only remains for them to state their opinion of its utility.

The agriculture of a country affords the best criterion of its prosperity. Whether we compare kingdoms, states, counties, districts or farms, the condition of this branch of labor, which they severally exhibit, is a sure index, not only of the pecuniary, but of its moral condition. It is no less an axiom founded in truth, that agriculture prospers or languishes, in proportion to the science and skill of the men who manage its labors. It is not the natural fertility of the soil, so much as the intelligence and industry of those who till it, which gives to husbandry its interests and its rewards. The man

who devotes the energies of a highly cultivated mind, to the improvement of this primitive and all important branch of labor, is a public benefactor. Cincinnatus did more to immortalize his name, and to command our applause, by his love of rural labors, than by his military exploits. Washington, amid all the honors that irradiated his brow, sought his highest pleasures in the business and retirement of the farm. And it was the first remark of our present chief magistrate, to the writer, after introduction, that he would not forego the pleasures of the farm for all the honors and emoluments that this nation could confer upon him. Education enables man to appreciate the wonderful provisions which God has made for his happiness in rural life, and imparts to him the ability of diffusing instruction and happiness to multitudes around him.

It should be the policy of government, therefore, which watches over the interest of all, to infuse into the labors of husbandry, all the lights of science and knowledge—to take care to expand and elevate the minds of those who are to give it efficiency and character, and to call forth skill and industry by proffered rewards. With us these considerations possess peculiar force. Our population and business are emphatically agricultural, and every aid which is extended to this class, benefits, indirectly, every portion of the community. Agriculture constitutes the fountains of the thousand rills, which, swelling and traversing every part of the state, propel the spindle and the hammer of the artizan and the manufacturer, and finally, by their union, make up the mighty stream of commerce which unceasingly flows into the Atlantic.

That our agriculture is susceptible of improvement—that the products of its labors may be doubled, nay quadrupled, must be apparent to those who have compared our husbandry with that of some European countries, or who have contrasted, at home, the well cultivated district, or farm, with those which are badly managed. How is the desired amelioration to be effected? How can a better husbandry be so well promoted, as by teaching it to our youth?—by sowing

our seed in the spring-time of life? Prejudice no where retains a stronger hold than among farmers who have approached or passed the meridian of life. While some retain old practices, for want of confidence in their knowledge to guide them in better ones, others lack the first requisites to improvement—a consciousness that their system is not the most useful; while not a few are influenced, in their hostility to public means of improvement, by the desire to keep things to their own level. If we would efficiently improve this great branch of business, and elevate its character, as well as the character of those who are engaged in its operations, we must do what universal experience has shown to be the only sure method:—we must lay our foundation in the rising generation—we must teach the *young* idea how to shoot—we must instruct the head to help the hands. Our physical and mental powers are twin sisters. They lighten each other's labor, and mutually impart a zest to each other's enjoyments. And as it is becoming common to introduce manual labor into literary schools, it is courteous that literature and science should requite the civility, by associating with the inmates of schools of labor.

Agricultural Schools, although of modern date, have nevertheless been established in most of the states of Europe, and their utility has been fully demonstrated. Who has not heard of the school of Fellenburgh, at Hoffwyl, or of Von Thayer, at Moegelin—to which young men are sent from every part of Europe, and even from America? In France and Prussia Agricultural Schools have been founded and maintained by the governments. If they are found to be beneficial, and worthy of governmental support, in countries where power is vested in the few, how much more salutary must they prove here—where our institutions receive the impress of their character from the many, and where the perpetuity of these institutions depends emphatically upon the intelligence and virtue of the agricultural population. Despotism will never flourish in the American soil, but through the ignorance, and we may say consequent depravity, of its cultivators.

Your committee recall to recollection, with feelings of pride, the munificent benefactions of the legislature, to advance the literary character of our state ; and the fact, that comparatively nothing has been done, legislatively, to improve our agriculture, which employs five-sixths of our population, can only be ascribed to the fact, that nothing has been asked for—nothing thought of. Our public colleges and academies, for literary instruction, are numerous and respectable. They meet our eye in almost every village. But where are our public schools of labor ? Where is the head taught to help the hands, in the business which *creates* wealth, and which is the grand source of individual and national prosperity and happiness ? Our literary and professional schools have been reared up and sustained by the expenditure of more than two millions of dollars from the public treasury, and they continue to share liberally of the public bounty. It will not, however, be denied, that the benefits which they dispense are altogether partial,—that the rank and file of society, destined by heaven to become the conservators of civil liberty, are virtually denied a participation in the science and knowledge,—in the means of improvement and of happiness, which they are calculated to dispense. Is it not a mandate of duty, then, as well as of expediency, that the benefits of public instruction should be more generally dispensed ? We hazard not the fear of contradiction in assuming, that if a moiety of the public monies, which have been appropriated to literary schools, had been judiciously applied, in rendering science subservient to the arts, and in diffusing the higher branches among the laboring classes, the public benefits from the appropriation would have been far greater than they are at the present day. How many hundreds may now be pointed out, of liberal education, who are mere ciphers in society, for want of the *early habits of application and labor*, which it is the object of the proposed school to form and to infix ! And how many, for want of these habits, have been prematurely lost to their friends, and to a purpose of usefulness for which man seems wisely to have been created—that of doing good to his fellows.



From a full conviction, that the interests of the state not only warrant, but require, an appropriation of public monies to this object, your committee beg leave to recommend to the consideration of the society the following resolution :

*Resolved*, That a respectful memorial be presented to the legislature, in behalf of this society, and of the great interest which it represents, praying that suitable provision be made by law, for establishing a School of Agriculture, on the plan recommended in the preceding report ; and that the co-operation, in this application, of societies and individuals, friendly to the object of the petition, be respectfully solicited.

*Ordered*, That 300 copies of the foregoing report and resolution be printed for the use of the members of the society.

*Resolved*, That Ambrose Spencer, Horatio Hickock, and Jesse Buel, be a committee to prepare and report a memorial to the legislature, in conformity with the preceding resolution.

*Resolved*, That Messrs. Beeckman, Le Ray and Webster, be a committee to report the order of proceedings to be observed in the future meetings of the society.

*Resolved*, That Messrs. Lynch, Walsh, Hungerford, Russell and Beeckman, be a committee to nominate suitable persons for officers of the society for the current year.

Mr. Vincent Le Ray de Chaumont requested the committee, in the name of his father, president of the society, in consequence of his prolonged absence, not to consider him a candidate.

Mr. Buel informed the committee that he had received a letter from the Hon. Edward P. Livingston, one of the vice-presidents of the society, declining a re-election, on the ground of his not being a practical agriculturist.

The Hon. Ambrose Spencer, having also ceased to be a practical agriculturist, declined being considered a candidate for any office.

The society then adjourned to 4 o'clock to-morrow afternoon.

*February 15, 1833.*

The society met pursuant to adjournment.

The minutes of yesterday having been read and approved,

Dr. LEWIS C. BECK, agreeable to request, delivered before the society a very lucid and interesting address, on the benefits of science, and particularly of botany, to agriculture, and describing some of the most valuable products of our forests.

On motion of Mr. Beeckman, of Columbia,

*Resolved*, That the thanks of the society be presented to Dr. Lewis C. Beck, for his very interesting and instructing address, and that a copy be requested for publication.

[We regret much that Dr. Beck has declined furnishing, for the present, a copy of his address for publication.]

The corresponding secretary made the following report :

The corresponding secretary reports—That in pursuance of the resolution of the society, he procured last spring twelve pounds of seed of the white mulberry, which he divided into parcels, and forwarded to the general committee in the several counties, with printed directions for managing the seeds and plants ; and that he has had returns from six or eight counties, in relation to the same, which all concur in giving satisfactory results, and of the parcels having produced from 2000 to 2500 plants each. Upon this data, if the society's efforts have been properly seconded, there are now growing in the state about half a million of mulberry plants, through its exertions. The benefits likely to accrue from this first expenditure, cannot but prove an incentive to further exertions :

That he sent a circular, of which a copy will be found in the proceedings of our first meeting, to the several members of the general committee :

That William Jay, Esq. of Westchester, gave an early assurance of his desire to co-operate in our useful labors, and enclosed five dollars as a donation to our funds :

That Benjamin W. Ross, Esq. of Essex, manifested a like desire, and also enclosed five dollars :

That F. C. Delavan, Esq. of Seneca writes, that from the

ounce of seed sent to him, five thousand mulberry plants have been reared, of which 2500 were raised by the Rev. Thomas Lounshery, all of which are in healthy condition. Mr. Delavan gave also an earnest of his good wishes, by enclosing five dollars.

That among the communications from foreign correspondents, is a very valuable one from Dr. William Darlington, of Westchester, Pa. on the use of lime in agriculture ; and a letter from Major John Adlum, of Georgetown, district of Columbia, accompanied by a copy of his treatise on the culture of the vine, and on the manufacture of wine, and a dozen bottles of wine of his vintage of 1831, presented to the society :

That communications, on practical husbandry, have been received from several members of the general committee ; and

That no official communications have been received from county societies, except that of Jefferson, although it is understood that societies have been organized in Oswego, Monroe, Onondaga, Saratoga, Essex and Clinton. It is also understood that societies are about being organized in Albany, Columbia, New-York, &c.

Mr. Beeckman presented the following report ; which was accepted.

The committee who were appointed by a resolution of the society, to report the order in which business shall be conducted in its future meetings, report :

That the order of business, after the organization of the society by the presiding officer, shall be—

1. To call the names of the members ;
2. Receive credentials of delegates from county societies ;
3. Admission of new members ;
4. Minutes of the preceding meeting to be read and approved ;
5. Standing and other committees to report ;
6. Treasurer to make his annual report ;
7. Communications received by the secretary to be made to the society ;

8. Communications of members to be received ;
9. Resolutions to be offered, and general business of the society to be transacted ;
10. President to deliver his address ;
11. Officers to be chosen.

### The Treasurer's Report.

The Treasurer respectfully reports : That during the year past, he has received the following sums :—

From three life members, \$50 each,	\$150 00
From three members, 5 „	15 00
From two members, 3 „	6 00
From 102 members, 1 „	102 00
Total,	<u>\$ 273 00</u>

That his disbursements have been as follows :—

For 12 pounds of the seed of the white mulberry,	\$ 26 00
For printing 300 circular letters—250 directions for planting the mulberry seed—and 1000 co- pies of the transactions of the society, and for stationary,	113 00
Total,	<u>\$ 139 00</u>

And that there remains a balance in his hands of \$ 134 00

Respectfully submitted,

CHARLES R. WEBSTER, Treas'r.

Albany, February 14, 1833.

On motion of Mr. Beeckman, of Columbia,

*Resolved*, That for the purpose of giving increased interest to the annual meetings of this society, its corresponding and recording secretaries be requested to provide, for the delivery of lectures and addresses on subjects of general interest to the agriculture of the state.

Mr. V. Le Ray de Chaumont, of Jefferson, from the committee on the subject of fairs, read the following report and resolution, which were adopted by the society.

## New-York State Agricultural Society,

*Albany, Feb. 14, 1833.*

The committee appointed at the first meeting of the society, to report “on the practicability and utility of establishing annual fairs, for the purchase and sale of live stock, seeds, and other products of husbandry, and of household labor,” respectfully report :—

They have found much difficulty in obtaining information on a subject entirely new in this state. The differences in agricultural and commercial habits and circumstances in Europe and in this country, renders the experience of those parts on this subject of little avail to us, and there is but scanty information to be gained here in relation to it. After a diligent and personal inquiry in the Middle and Northern States, your committee cannot learn that any thing of the kind is in existence except in Massachusetts. They have attempted it there, in connexion with their county agricultural societies, but it does not succeed as well as would be desirable. A large fair for the sale of cattle and other animals is held weekly at Brighton near Boston, and is very extensive and flourishing ; but it has a mixed character, which, while it promotes its utility, renders it different from such fairs as we contemplate, at least, for the interior of the state. There, the butchers come from a large district of country, and meet not only farmers, but a greater number of drovers, and a middle class of people who act as agents or commissioners for the farmers.

In examining the subject in itself and as applied to our state, your committee can hardly believe that if fairs for the sale of live stock, &c. were properly organized in different parts of the state, they could fail of being beneficial to both farmers and purchasers ; and nothing is wanting to insure this success but a general concurrence of both those classes. We would then see the results produced upon those branches of industry which attend others in large markets. The farmers, better informed of the prices, would not be exposed—on the one hand to be de-

ceived by speculators—nor, on the other, to keeping his produce in consequence of erroneous information. The purchaser would be able to make up in a short time, the amount of purchases which it would have taken weeks to assemble, and could at the same time give to farmers prices augmented by competition, and by the saving of expense attending this way of procuring his supplies.

If, however, this concourse of sellers and purchasers was only partial, the great object of these fairs would not be attained, and a subsequent discouragement would probably retard, if not prevent, their ultimate success.

Your committee therefore do not feel warranted in recommending at present the establishment of these fairs upon the extensive plan which they are confident would be very beneficial if it could be fully carried into operation. They have considered that much of the live stock in this state, and to the west, passes through Albany on its way to Boston, New-York, and the neighborhood of those cities. The concentration of a part of this stock, at least once a year, at a proper time and place, could add nothing to the expense of taking them to market, and would offer great advantages to sellers and purchasers. They believe that a fair held in Albany, and one in New-York, would give the opportunity of testing the merit of these institutions, and mature data upon which to establish others. The different county societies which have been organized during the past year, will then examine the subject for themselves; and these fairs being introduced by degrees, and as the wants and feelings of the people call for them, will, it is hoped, spread generally and successfully throughout the state.

Your committee, therefore, beg leave to introduce the following resolution :

*Resolved*, That a fair for the sale of live stock, seeds, and other products of husbandry and of household labor, be held in the city of Albany, on the second Thursday of October next, and one in the city of New-York, on the fourth Thursday of the same month : and that the civil authorities and agricultur-

al societies of those places be requested to make preparations for the holding of those fairs.

On motion of Mr. Hickock, of Rensselaer,

*Resolved*, That the thanks of the society be presented to Dr. William Darlington, of Pennsylvania, for his able and lucid communication on the use of lime in agriculture.

*Resolved*, That the corresponding secretary tender to Major John Adlum, of Georgetown, the expression of our thanks for the book and box which he has sent to the society.

*Resolved*, That the corresponding secretary address a circular to the presidents of the several county agricultural and horticultural societies already organized, or which may be organized the present year, requesting them to transmit to this society, at its annual meeting, an account of their several proceedings, with their views of the means best adapted to improve our husbandry and to diffuse useful knowledge among those who manage its labors.

*Resolved*, That 500 copies of the proceedings of this meeting be printed in a pamphlet, and that the corresponding secretary include in it such communications as he may have received, and shall deem worthy of publication.

On motion of Mr. Lynch, of New-York,

*Resolved*, That this society entertains a lively sense of the zeal and usefulness manifested by LE RAY DE CHAUMONT, (late president of the society) in promoting the interests of agriculture in this state ; and regret that he has declined a re-election to the office of president, on account of a visit to Europe.

*Resolved*, as a testimony of respect, that LE RAY DE CHAUMONT, be and he is hereby elected an honorary member of this society.

Mr. Lynch, from the committee appointed to recommend suitable persons for officers of the society for the current year, made a report :

Whereupon the following persons were duly elected to the offices annexed to their respective names, viz.

**JESSE BUEL**, of Albany, *President*.

**GERRIT WENDELL**, of Washington,  
**WILLIAM JAY**, of Westchester,  
**VINCENT LE RAY DE CHAUMONT**,  
of Jefferson, } *Vice Presidents.*

**HENRY W. DELAVAN**, of Saratoga,  
**JOHN F. BACON**, of Albany, *Recording Secretary.*

**Dr. J. P. BEEKMAN**, of Columbia, *Corresponding Sec'ry.*

**CHARLES R. WEBSTER**, of Albany, *Treasurer.*

**JOHN TOWNSEND**, of Albany,  
**ALEXANDER WALCH**, of Rensselaer,  
**HORATIO HICKOCK**, of Rensselaer, } *Additional Members  
of the  
Exec. Committee.*

The following gentlemen were appointed a general committee, viz.

**Albany**—**William N. Sill**, **Rufus Watson**, **D. B. Slingerland**.

**Allegany**—**Philip Church**.

**Broome**—**Virgil Whitney**.

**Cattaraugus**—**Staley N. Clark**.

**Cayuga**—**Joseph L. Richardson**,  
**E. Manchester**, **James Wood**,  
**Nathaniel Garrow**.

**Chautauque**—**Squier White**, **J. Mullet**.

**Chenango**—**Thomson Mead**, **Uri Tracy**, **John Latham**.

**Clinton**—**Josiah Fisk**.

**Columbia**—**John P. Beekman**,  
**William B. Ludlow**, **William H. Wilson**.

**Cortland**—**Samuel G. Hathaway**,  
**Jesse Ives**.

**Delaware**—**Jabez Bostwick**, **M. Keeler**.

**Dutchess**—**David Hosack**, **Wm. Davis**, **James Grant**, **Isaac R. Adriance**.

**Erie**—**Peter B. Porter**.

**Essex**—**Henry H. Ross**.

**Franklin**—**Luther Bradish**.

**Genesee**—**Martin O. Coe**, **Shubal Dunham**, **Horace Healey**.

**Greene**—**Anthony I. Van Bergen**, **John Adams**.

**Herkimer**—**Wm. C. Crain**, **Frederick P. Bellinger**, **Daniel C. Henderson**.

**Jefferson**—**Noadiah Hubbard**,  
**Edmund Kirby**, **Egbert Ten Eyck**.

**Kings**—**Joseph Canselyea**.

**Lewis**—**Isaac W. Bostwick**.

**Genesee**—**James S. Wadsworth**,  
**Charles H. Carroll**.

**Madison**—**Matthew Pratt**, **Joseph Bruce**, **Sylvester Buelur**.

**Monroe**—**Isaac Moore**, **Wm. Garbut**, **James Sperry**.

**Montgomery**—**Stephen Reynolds**,  
**Archibald M'Intyre**, **Samuel Jackson**.

**New-York**—**S. Fleet**, **Dr. J. R. Rhineland**, **Wm. Wilson**,  
**Jacobus Dyckman**, **Thomas**



- Hogg, Abraham Bell, Charles Oakley, Gideon Lee, Alpheus Sherman, Wm. Shaw, James B. Murray.
- Niagara—Benjamin Barton.
- Oneida—George Brayton, Eli Savage, Gardner Avery, Israel Stoddard, Ephraim Perkins.
- Onondaga—David Monroe, John C. Brown, James Geddes, Dan Bradley.
- Ontario—Robert C. Nicholas, Thaddeus Chapin, M. Fairchild.
- Orange—George D. Wickham, Jacob S. Waldron, Samuel S. Seward.
- Orleans—Abraham Cantine.
- Oswego—William M. Cheever.
- Otsego—Abm. Roseboom, John Russell, Pascall Franchot, I. Hays.
- Putnam—
- Queens—John A. King.
- Rensselaer—Richard P. Hart, William Aikens, Abm. Knickerbacker, Henry D. Groove.
- Richmond—Richard Crocheron.
- Rockland—Cornelius I. Blauvelt.
- St. Lawrence—William Bacon, Theodosius O. Fowler.
- Saratoga—Earl Stimson, Philip I. Schuyler, John A. Steele.
- Schenectady—Wm. A. S. North.
- Schoharie—William C. Bouck, William Deitz.
- Seneca—Tompkins Delavan, E. Woodworth.
- Steuben—Andrew P. Dickinson, William Kernam.
- Suffolk—Selah B. Strong, Nicoll Floyd.
- Sullivan—William Gillespie.
- Tioga—David Williams, Caleb Baker.
- Tompkins—Nicoll Halsey, C. H. Monell, Benj. Jennings.
- Ulster—Levi Hasbrouck, Jacobus Hardenbergh.
- Warren—William M'Donald.
- Washington—John M'Donald, Alexander Livingston, Thos N. Clark.
- Wayne—George Barrell, Myron Holley.
- Westchester—Wm. Jay, Peter V. B. Livingston, Philemon Halsted.
- Yates—Thomas I. Nevins.

On motion of Mr. Viele, of Rensselaer,

*Resolved*, That the thanks of the society be presented to the Hon. Ambrose Spencer, for the faithful manner in which he has presided over its deliberations.

The society then adjourned, to meet again at the time designated in the constitution.

A. SPENCER, President, p. t.

J. BUEL, Sec'ry. p. t.

# APPENDIX.

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## PAPERS READ BEFORE THE SOCIETY.

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### *Letter from LE RAY DE CHAUMONT.*

*Plessis, (near Vendome in Touraine) 16 Dec. 1832.*

Mr. J. Buel, Corresponding Secretary  
of the State Agr. Society, Albany.

SIR,

When I resolved, last summer, to pay a visit to my native country, I was much pained with the idea that it would deprive me for a considerable length of time of the satisfaction of uniting my efforts with those of such of the members of our State Agricultural Society as were zealous in promoting its success. However, I was soon relieved, when I considered how many there were in our society who could render the same service ; while, during my travels and stay on this side of the water, I could make them useful by observations and notes collected on my route, upon whatever might be worth communicating ; also, by connecting our society with some of those in France whose object is somewhat similar to ours. The alliance of such societies cannot but prove useful and produce improvements.

Having began my travels rather late this year, my information will not be as interesting as I could wish ; but I hope, that during the other year I intend to appropriate to my stay in Europe, I will have collected facts more worthy the attention of our society. My travels have been through those parts of

France, of the duchy of Baden and of Switzerland, which have much analogy, in respect to climate, to that of New-York.

I will begin by the grape vines.

I am still more of opinion, since I left America, that serious attention should be paid to that important cultivation. I am more certain of the success which is to attend it in the state of New-York.

I have received from the county of Jefferson, information that grapes perfectly ripe have been picked from vines cultivated in open ground, and the letter which mentioned it reached me here when they had not yet began their *vendanges*, and were not expecting the grapes to be sufficiently ripe for several days to come. You must consider that I am here in that celebrated country for fruits, Touraine, which is the centre of France. They were much more backward in those countries I had just left and mentioned above, and in some parts of which wine is made in quantity.

You know how uncommonly severe and long was last winter in the state of New-York, and I must observe that in this country it was one of the mildest, and the spring very fine, as well as the summer ; this last season was, however, rather too dry. I was still more astonished at the comparative quickness of the growth of the vine, and the abundance of its production. It is so much in our favor, that I not only created wonder, but yet a sentiment bordering upon entire incredulity, when I mentioned the produce of a cutting planted along the house of Major Brown, late in 1827, and which had produced above one hundred fine clusters, perfectly ripe, in the middle of September, 1830, and more than three hundred the following year, at the same period, equally good and fine flavored ; a fact which has been well ascertained by the agricultural society of the county, and published afterwards in their transactions.

My great objection, and I must say the only one which I had, and even published formerly, to the cultivation of the vine, with

a view of making wine, is removed by the happy result of many enquiries and observations I have made, in examining attentively a method very different from the one which is uniformly adopted in all the vineyards of the middle and northern parts of France. There nine-tenths of the work, at least, is made by the hand of man, and part of it so painful and hurtful to the body, as to injure materially the workmen; while in many parts of the south, and in some parts of Switzerland, where very good wines too are made, the most painful and more laborious part of the cultivation of the vine is achieved by the work of horses and cattle. The difference is such in favor of this country, between the two methods, that I do not hesitate to say, that every thing considered and calculated, this last method, with some improvements I will suggest, will not occasion you more expense than in France, to produce the same quantity of wine that would be obtained by the other method, which would cost you nearly three times as much as in France. This result is not only occasioned by the difference of the price of labor of men in the two countries, which in the preferred method is substituted for the greatest part, by the work of animals, that do not cost more in the state of New-York than in France, and which can be fed cheaper; but because this preferred method owes principally its greater produce to its having a much greater proportion of land consecrated to the same quantity of vine stalks, and that the land is considerably cheaper than here. Mr. Thiebault in comparing the two methods, to prove the immense advantage of the one he recommends, does not calculate the produce of an acre, but of the number of stalks. He says "that 2000 stalks trained according to this method, will produce yearly 26,000 gallons of wine; while on the other hand, 6000 stalks trained in the ordinary way, produce, in common seasons, only from 780 to 1300 gallons, and in the very best seasons only about 2600 gallons." This enormous difference of thirty to one, I do not warrant, but only that there is a considerable one. Mr. Thiebault adds, that the increase in quality is also considerable.

Considering the comparative value of the land you would appropriate to the cultivation of the vine, with the same nature of land in Europe, and that there is a difference of at least nine-tenths in favor of the United States, I would propose an altogether different and more economical method in the first planting of the vine. I would set the roots and wooden posts a rod apart, instead of eight feet, as recommended by Mr. Thiebault, leaving as he does, the space between for the cultivation of grain or other productions, as preferred by the farmer. The trenches two feet broad and one foot deep, should be made with the plough and the scraper, which can be equally useful and convenient in covering the roots. Some alteration and economy could be made in the hand labor, when we take into consideration that a considerable part of it can be done by children during the vacations. On the line of that plantation I would recommend planting, in an eastern and western direction, a mulberry tree alternately with the grape vine. The wooden post will for several years be the supporter of the grape vine, but it will probably be rotten and rendered useless when the vine will have sufficient strength to need no support for its stalk, but would require some aid to keep its lateral branches in the desired position. The mulberry tree will then answer the purpose : It must be well taken care of at all times, and will pay not only the expense but yield a handsome benefit for those who will pursue the cultivation of silk, or who have in their neighborhood some one cultivating it. At all events, their cattle would relish that food which would come for them in a very good season. The tree must be trimmed in such a way as to have one single stock and a very small head, which when arrived at the height of about eight feet must be regularly trimmed twice in the fine season, when its foliage is most suitable to the feeding of worms. In that way the mulberry will give no injurious shade either to the vines or to the grain or plants which are to be sown between the ranges. You will observe that in that way of planting and cultivating the vine, the cattle, as I have stated in the beginning of this article, will do

the essential part of the work ; and that they not only afford the greatest help for cultivation, but yet come in for the hardest share at the time of collecting the fruit. I will one day give more details upon what is to be done in the years which will follow the planting and first growth ; and you may rely upon my readiness to transmit to the society what further information they can ask from me. I intend to examine more minutely this kind of cultivation, and ascertain as near as I can the real produce. Meanwhile, I think the society may boldly recommend the cultivation of the vine, chiefly in the west and north of the state. To support this advice, I cannot better conclude this article than by quoting, what I notice with pleasure, in a letter I have just received from the respectable secretary of the agricultural society of Jefferson county. Among the different valuable details he gives me of the cattle-show and fair which took place the 26th September last, I find the following : “ A curious exhibition of the process of silk-making was interesting ; and Dr. Guthie accompanied his specimen of grapes with a letter, stating that the culture of the grape was as easy and certain in this country as that of raising apples, or any other of the vegetable productions.”

The next important article is the culture of silk. All I have seen and heard upon that subject, since my arrival in Europe, confirms me in the opinion, that the United States in general are as well if not better adapted to the cultivation of the mulberry and the culture of silk, than the most favored countries on this side of the water. The cocoons that we raised last year at Le Raysville, with so little trouble, and such an imperfect knowledge of the proper management of this delicate worm, have been much admired by those capable of judging, to whom I presented them for examination, and the silk thought of the very first quality. I have ascertained that in the duchy of Bâle, they rear the mulberry tree in very indifferent soil, rather poor, and cultivate the silk with success. Certainly where the worms are educated, the season is far from being as favorable to them as it is in the north of the state of New-York. I hope that the efforts of the society for encour-

aging the culture of silk will have been successful, and I am very anxious to see the report which will be made to the society on a subject of such vital importance.

Wherever I have travelled I have observed that they cultivate hemp. I was struck with the immense expense that cultivation cost, chiefly in manure. If now and then I met with some privileged piece of ground, which by its fertility did not require such a quantity of manure, the price of the soil was so high that the mere interest of the same would have purchased, to my knowledge, in either Jefferson or Lewis counties, a similar quantity of land, as good at least for the production of hemp, and where the cultivation of it will not cost so much. I hope our society will think it advisable to recommend to the farmers a particular attention to the raising of hemp, wherever the soil is favorable for its cultivation.

I have noticed a curious method of drying fodder by fermentation. I think it worth giving you some details about. They put the hay in hay-cocks on even ground, very soon after it is cut, i. e. 12 or 15 hours, in piling it very equally and treading it down. Rain does not injure it materially. The diameter of a hay-cock does not exceed four feet, and the height equal to 2-3 of this diameter. As soon as the heat produced by fermentation is too great for the hand to remain in the middle of the hay-cock, say 20 or 24 hours after, they use all diligence to spread the hay, bad or good weather, for it is spoiled in a few hours. Three or four hours are sufficient to dry the hay entirely. The outer part which is not fermented is put aside and treated by the ordinary means. This hay can be preserved several years without experiencing any deterioration. It has a vinous smell which cattle like when once accustomed to it. It is very well adapted to the use of cattle in general, and particularly to horses. They can eat of it freely without inconvenience, even when it is recently made. This method is chiefly advantageous to clover and luzerne, because it dries them sooner—it prevents the leaves from falling, and preserves the nutritive principle.

I have always been an advocate of the roller, and have seen

with regret that it is far from being found in every farm in the state. I am still more convinced of its utility since my last travels through France, as also of the benefit resulting from the harrow ; respecting which I can recommend the following method :—In the spring, when the wheat is dry and suffering, pass on it a pair of small harrows. About a month after, the operation can be repeated. The improvement will be very sensible a short time after the first labor, and the result will be a considerable augmentation in the crop, and more straw. You need not fear to unroot the plant. Not one in five hundred will be destroyed ; but if there are some lost, the others will supply their place largely from the benefit they will receive in the operation. In following this method, you can sow your wheat thinner than is commonly practised, and provided it is sown regularly you can thicken it by the harrow. The straw becomes then stronger and the wheat seldom lodges—It saves you also from sowing as great a quantity of grain.

There is a species of barley, called *May wheat*, cultivated in the north of France. The ground is prepared in the fall by deep ploughing, and a second one in dry weather immediately before sowing, which is thin, and done in the first days of April. It ripens at the same time as rye. It has a strong growth of two feet. Each stalk gives commonly 12 or 15 heads. It produces about thirty bushels to the acre. Very good bread is made with half flour of barley and half of wheat. It requires better land than common barley.

I wish that any member of the agricultural society of the state of N.York, not sufficiently persuaded of the great utility, nay of the necessity, of encouraging the increase of agricultural societies in different parts of our state, had been with me in my travels. I regretted that establishments of that kind were not more frequent, and still more that not one of them was organized and regulated as it ought to be to promote the good contemplated. But yet the advantages of these institutions are demonstrated beyond the smallest doubt, by the considerable difference which exists between those parts of the



country which have none and the others where some of their best organized societies have exercised their influence. I could quote some of the finest parts of France where the establishment of a good agricultural society has within very few years doubled the produce of the soil. But my letter is already too long to write whatever I could say upon this subject. I must conclude, by tendering my services to our society, and assuring its members of my readiness to do all in my power to subserve its best interest.

I remain, very respectfully,

Your obed't servant,

LE RAY DE CHAUMONT.

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*Letter from Dr. WILLIAM DARLINGTON, of Pennsylvania,  
on the use of LIME in Agriculture.*

*Westchester, (Penn.) December 17, 1882.*

DEAR SIR,

Your letter, containing a number of *queries* relative to the operation and utility of *lime*, in the processes of agriculture, was received in the early part of June last: But as I have been much engaged, during the past summer, with duties which required all my attention,—and, as your letter intimated that answers furnished “any time during the present year” would be in season for your purposes,—I have taken the liberty to postpone my reply until now.

I proceed, then, with great pleasure, to furnish you with such facts and remarks as my opportunities for observation have enabled me to offer. With a view to render the answers more explicit and satisfactory, I will annex them, *seriatim*, to your several inquiries.

*Query I. “Upon what lands does lime operate most beneficially.”*

1. *In regard to geological formation,—as primitive, transition, secondary, and alluvial ?*

2. *In reference to the soil,—as sand, clay, lime and vegetable matter?*

3. *As indicated by natural growth of timber and plants?"*

*Answer.* My residence has always been in a *primitive* region, and my observations very much limited to agricultural processes in soils upon that formation. The prevailing rock here is gneiss,—with occasional beds, or veins, of hornblende, greenstone and scienite. About five miles to the north of us, is the great valley of transition limestone, stretching from northeast to southwest; and immediately on the southern side of this valley, running parallel with it, is a broken ridge of hills, formed of mica slate,—with beds of serpentine rock and hornblende, on the side next to the gneiss rock, on the southeast. Over the gneiss rock, and among the hornblende, the soil is generally a stiff loam; and there, I think, the best effects are perceptible from a given quantity of lime. On the soil overlaying the schistose rocks, the good effects of lime are sufficiently obvious, under the management of skilful farmers; but the benefits seem to be less permanent. On the serpentine rock the soil is extremely sterile,—and neither lime nor barnyard manure can be used with much advantage. In the limestone soil of the great valley, where one would suppose it was already redundant, lime is used with advantage; and much heavier dressings are put on, than in the adjacent districts. I cannot furnish the *rationale* of this practice; but I believe the fact is established, that more lime is required to produce the same beneficial effect upon soils resting on limestone rock, than upon those overlaying gneiss,—and perhaps some other primitive rocks.

I have had no opportunity to witness the effect of lime upon *secondary*, and strictly *alluvial*, formations; but the above circumstance has led me to suspect, that the *same quantity* of lime would not be so signally beneficial in *secondary*, as it is in certain primitive formations.

Lime, undoubtedly, has a good effect in soils which are *sandy*,—even where sand predominates; but I believe its

meliorating properties are most conspicuous in a *clay* soil,—or rather in a *stiff loam*. A good proportion of decomposed vegetable matter adds greatly to the beneficial effects of lime; and hence our farmers are desirous to mingle as much barn-yard manure as possible with their lime dressings,—and to get their fields into what is called a good sod, or turf,—full of grass roots. *Then* a dressing of lime has an admirable effect.\* The soils indicated by a natural growth of black oak, (*quercus tinctoria*,) walnut (*juglans nigra*,) and poplar (*liriodendron*),—and those in which such grasses as the *poas* and *festucas* best flourish, are generally most signally benefited by the use of lime. In short, I may observe, that lime has been found more or less beneficial in every description of soil, in this district. It is most so, on hilly, or rolling lands, where clay predominates,—less permanently so, among the mica slate,—and least of all, on the magnesian rocks. The soil on these last is rarely worth cultivating.

Query II. “*What quantity of lime is applied to the acre, upon different soils, at a single dressing, and during a period of years?*”

Answer. The quantity of lime, per acre, which can be used advantageously, varies with the condition and original character of the soil. Highly improved land will bear a heavier dressing than poor land. On a soil of medium condition, the usual dressing is 40 to 50 bushels per acre. A deep, rich soil, or limestone land in the great valley, will receive 70 to 80—(and I am told even 100,) bushels to the acre, with advantage. On very poor land, 20 to 30 bushels per acre, is deemed most advantageous to commence with. It is usually *repeated* every five or six years—i. e. every time the field comes in turn to be broken up with the plough; and as

\* The yard manure is not usually mingled with the lime, when the latter is first applied. The practice is, to lime the *Indian corn* ground, prior to planting that grain on the inverted sod,—and, the ensuing spring, to manure the same field for a *barley* crop;—or, to reserve the manure until the succeeding autumn, and apply it to the *wheat* crop. It is not well settled which of these is the better practice. Each has its advocates; but it is most usual to reserve the manure for the wheat.

the land improves, the quantity of lime is increased. The prevailing practice here, is, to plough down the sod, or *lay*, in the fall or early in the spring,—harrow it once—and then spread the lime (previously slaked to a powder) preparatory to planting the field with Indian corn. Every field, in rotation, receives this kind of dressing: and as our farms are mostly divided into about half a dozen fields, the dressing of course comes once in six years, more or less according to the number of the fields. Some enterprising farmers, however, give their fields an *intermediate* dressing, *on the sod*, after they come into grass; which I consider an excellent practice,—tending rapidly to improve the condition of the land.

*Query III. “Is it applied in a caustic or an effete state?”*

*Answer.* It is usually obtained in a caustic state from the kiln,—deposited in heaps in the field where it is to be spread, and water sufficient to slake it to a powder, is then thrown upon it. As soon as slaked, it is loaded into carts, and men with shovels distribute it as equably as possible over the ground. It is generally considered best to put it on the ground whilst it is fresh, or *warm*, as the phrase is; and it is certainly easier to spread it equally, while in a light pulverised state, than after it gets much wet with rains. I am inclined to think, too, it is better for the land, when applied fresh from the kiln.

*Query IV. “To what crops is it most advantageously applied, and at what seasons?”*

*Answer.* It is usually applied, as already intimated, to the crop of *Indian corn*, in the spring of the year—say the month of April. Occasionally it is applied, preparatory to sowing wheat, in autumn. When used as a *top dressing*, on the sod, it is generally applied in the fall—say November. The prevailing impression is, that it is most advantageously applied to the Indian corn crop; and hence the general practice. But the truth is, it is highly advantageous at any, and at all seasons; and our shrewd old farmers have a saying, —“*Get your lime on for your corn, if you can,—but be sure you get it on the land, some time in the year.*”

*Query V. "How is it incorporated with the soil—by the plough or the harrow? and is it applied in any case as a top dressing to grass and to grains, and with what effect?"*

*Answer.* As already stated, after the sod is ploughed down for Indian corn, it is usually harrowed once, to render the surface more uniform. The lime is spread as equally as possible over the field,—and then the ground is well harrowed in different directions, in order to incorporate the lime with the soil. Soon afterwards, the field is marked out, and planted with corn. The plough is rarely, if ever used, for the purpose alluded to. I have mentioned above, that lime is occasionally used as a top dressing, for grass. It appears to be particularly beneficial to that crop; and answers extremely well, when applied in that manner. The practice of applying it to Indian corn, as above related, is, however, chiefly followed: and the application of a dressing to each field, in rotation, causes as much labor and expense every year, as our farmers generally are willing to incur. Lime has rarely been used as a top dressing to *grain* crops, within my knowledge.

*Query VI. "What is the ordinary cost, per acre, of liming, and the relative profits, in increased products, of a period of years?"*

*Answer.* Quick lime, at the kilns, usually costs twelve and a half cents per bushel. The farmers generally haul it with their own teams; and the additional expense depends, of course, materially upon the *distance*. It is frequently hauled by them a distance of 8, 10, and even 12 miles. The average, perhaps, is about 5 or 6 miles. It is delivered to me by the lime burners, (a distance of near 6 miles,) at 18 cents per bushel. At the rate of 40 bushels to the acre, the cost, at 18 cents, would be \$7 20 cts. per acre. It is difficult to estimate, with precision, the relative profits, in increased products: But I can safely say, from my own experience, on a small farm of middling quality, that two dressings of lime at the above rate, in the course of 8 or 9 years

have more than trebled the products of the land to which it was applied, both in grain and grass. It is to be understood, however, that the system of *ploughing only so much ground as could be well manured*, was adopted at the same time. I may also observe, generally, that the farmers of this district, (who are shrewd economists,) are so well convinced of the beneficial effects of liming, that, costly as its application seems to be, they are unanimous in sparing no effort to procure it. Lime has been found to be peculiarly favorable to the growth of pasture, when the farm is otherwise well managed: and, as our farmers are mostly in the practice of feeding cattle, they resort to liming as an indispensable auxiliary to successful grazing.

*Query VII. "Is lime applied with yard manures, or earthy composts, and with what results?"*

*Answer.* I have already intimated that vegetable matters, and especially yard manures, are highly important in conjunction with lime. Both are valuable, even when used separately; but when *combined*, the effect is most complete. If to this be added, that great secret of good farming, *viz.* to plough only so much ground as can be well manured,—the state of agriculture may be considered nearly perfect.

Lime is, in some instances, added to earthy composts, preparatory to distribution on the field: But it is doubtful whether the extra labor of this method is compensated by any peculiar advantages. It is not generally practised.

*Query VIII. "Is powdered limestone (carbonate of lime) applied to soils; and if so, does it induce fertility otherwise than by mechanically ameliorating their texture?"*

*Answer.* No instance of powdered limestone being applied to soils has come under my notice. I can, therefore, form but a very imperfect opinion of its utility. If it were even as beneficial as quick lime, (which I doubt,) I apprehend it could not be procured and applied with less cost and labor.

*Query IX. " On what soils, if any, in your neighborhood, is lime found to be inoperative, as a fertilizing application ; and the cause of its failure ?"*

*Answer.* There is no soil in this district, deemed worthy of cultivation, on which lime is *wholly* inoperative as a fertilizer. On some sterile, slaty ridges, and on magnesian rocks, it has indeed but a slight effect ; and even the benefits of barnyard manure are very transient. In low, swampy grounds, also, unless they are previously well drained, the labor of applying lime is pretty much thrown away. There seems to be something in the constitution of magnesian rocks peculiarly unfriendly to the growth of the more valuable plants. Indeed, there are patches of the soil perfectly destitute of all vegetation. Repeated attempts have been made to cultivate the bases of our serpentine banks ; but neither lime, nor manure, will enable the farmer to obtain more than a light crop of small grain. Neither clover, nor the valuable grasses can be induced to take root and flourish in the ungenial soil. It is, therefore, almost universally neglected.

I have thus endeavoured, (in rather a desultory manner, I confess,) to answer your queries according to my best judgment. If what I have furnished shall in any degree tend to make the subject better understood, I shall be amply gratified.

With great respect,

I have the honor to be,

Your obedient serv't,

WM. DARLINGTON.

JESSE BUEL, Esq. Cor. Sec. &c.

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*Communication from JESSE BUEL, Esq. on MANURES.*

The provident farmer, who knows the value of food to his stock, should equally appreciate the importance of food to his crops : for manure, that is, animal and vegetable matter, is as essential to the growth and perfection of the vegetable, as forage is to the growth and developement of the animal.

Mere earths, as clay, sand and lime, in whatever proportions they be blended, constitute no part of the true food of plants, although they may be incidentally found in them, and be essential to their structure, as lime is in the bones of animals. It is the mixture of vegetable and animal matters with earths that constitute what we denominate soils; and the quality of soils, in reference to fertility, is in a great measure determined by the quantity of vegetable soluble matter which they contain. Hence fields, long subjected to tillage, without occasional supplies of manure, become exhausted of vegetable food, and refuse a return to the labors of the husbandman. In some districts of our country, particularly in Maryland and Virginia, vast bodies of land, once fertile, have been thus injudiciously worn out, and thrown into commons as useless. Had the owners of such lands obeyed the golden rule, to till no more than they could manure well, their husbandry would have been more profitable, and their fields now fertile and enclosed. In truth, most of us act unwisely in these matters. We cultivate more land than we cultivate well. We are careless in saving manures, and wasteful in applying them. We should readily condemn the husbandman, as a bad manager, who should attempt to *fatten* upon his farm, twice the number of cattle which it could *feed*. And yet this is precisely the policy which many pursue in regard to their crops. A starved crop is as discreditable to the owner as a starved animal.

In some of the Asiatic countries, where the population is dense, the preservation from starvation of even human beings, sometimes depends upon the fidelity with which every refuse vegetable and animal substance is applied to the soil, as food for plants, destined to subsist the human species.

In Europe, wherever agriculture is prosperous, we see the most scrupulous care used in husbanding and applying this pabulum of vegetation.

Flanders, which has been denominated the garden of Europe, owes much of her prosperity and wealth to her superior



management of this source of fertility. Not a particle of fertilizing matter is wasted. The farm stock is fed, summer and winter, in paved stables or sheds, and the urine collected in tanks, and from thence distributed upon the crops. This, with the rape cake which is dissolved in it, constitutes the better half of a Fleming's manure. If applied fresh, it is diluted. It is carried to the fields, and distributed with facility, and forms the best application for clovers and other growing crops, and particularly for flax.

In America, we have been drawing, with reckless waste, upon the supplies of vegetable food which nature has been accumulating for centuries, without husbanding the resources which lie within our reach, and without reflecting on the sterility which we are likely to bequeath to posterity. The old settled districts of our country have already experienced the loss of natural fertility in the soil, and are endeavoring to restore it by a better system of husbandry. The new counties are destined to deteriorate, like the old ones, unless the evil is averted by a timely prudence in economizing manures, and in alternating with grain, more frequently, ameliorating and fertilizing crops, as roots, grasses, &c. Constant dropping will wear upon the hardest rock; and even the ocean would in time become dry, if the fountains which supply it were dried up. Providence endued the earth with fertility, and it is the indiscretion and violence of man which have rendered portions of it sterile and unproductive.

In the few remarks which I have to offer, I propose to consider :—

1. The means of increasing, and preserving from waste, those manures which fall within the reach of farmers generally.
2. The methods of applying them with economy. And,
3. To make some suggestions upon what I term specific manures.

*First.* Whatever has belonged to a vegetable or an animal, is susceptible of becoming food for plants, and should be converted to this use. And the quantity of such, which is

wasted upon a farm, is very great. But the dead matter, in the course of its transmutation into the living plant, undergoes a decomposition, or separation of its parts, the volatile properties are disengaged in the form of gas, those less volatile commingle with the liquids which come in contact with the mass, while the portion that remains, after the fermentation which causes the decomposition of a dung heap has subsided, constitutes but about one half of the original fertilizing matter; and even this must undergo a further and complete decomposition, in the soil, before it can be taken up by plants, and assimilated with their substance. To save the volatile and liquid portions, for the benefit of his crops, must therefore be an object of great interest to the farmer. If his manure ferments in his yards, and is leached by the rains which fall, the best half of it is irrecoverably lost. And if the fermenting process is carried on upon the surface of his fields, the loss is nearly the same—the gases escape, and the liquids benefit but a comparatively small portion of the grounds. To prevent this great loss, till the manure can be properly applied to the soil, two courses may be adopted, one by retarding fermentation, the other by mixing with the manure earthy matters sufficient to absorb and retain the gases and liquids.

To effect the first object, the barnyard, the site of which should be upon a level surface, may be hollowed in the centre, so as to prevent the escape of the liquids, and to concentrate them from the borders, which may be left broad enough to feed the stock upon, and to afford a dry passage to and from the barn. To prevent the evaporation of these liquids, every species of vegetable litter from the farm and buildings, and the earth from the ditches, swamps and head lands, should be thrown into to absorb them; and as during winter the mass will be frozen, the stalks, straw, &c. may be fed upon this part of the yard. I am satisfied from personal experience, that no artificial puddling is necessary, even upon porous soils, to render such yards capable of retaining water. If greater perfection is desirable, the urine from the stables may be conducted in paved gutters to this reservoir, and a drain may be

made to conduct any excess of liquids from it to a tank, from which they may be raised with a pump, and conveyed to the fields when wanted. The liquid manure may be transported in casks, placed upon tumbrils or carts, or conveyed by men, as in Flanders, two parallel poles being fastened to a barrel, below the bilge, and carried by two men. The manure from the horse stables may be spread over the yard, and thus kept from fermenting. Let it be borne in mind, that the best means of retarding fermentation in dung, is to have it constantly trod, in the yard, by the cattle, sheep and hogs; and, in the field, to have it compressed by the teams, which take it from the yard, driving over the pile, and by affording it an abundance of moisture. A loose mass is pervious to heat and air, which soon cause fermentation; but a compact mass, spread over the yard rendered hard by the hoofs of animals, and thoroughly saturated with moisture, will not ferment before the ordinary season of removal; and it often becomes necessary, and is in fact an excellent practice, to cut it with a broad axe or hay knife, to facilitate its removal. If the contents of the yard are applied, as they ought to be, to the spring crops, but an incipient fermentation, at most, will take place before they are removed to the field. To preserve dung in the fields from waste, it may be alternated, in piles, and covered, with earth, particularly with peat earth, or muck, from the swamps, which may be found on most farms. This swamp earth is principally, in its place, inert vegetable matter, a good material for feeding plants, when rendered soluble. But to render it so, it is necessary to combine it with earths, quick lime or barnyard manure, which, by generating heat, and probably inducing new chemical combinations, brings on a fermentation. If mixed with hot stable dung, in the proportion of three of earth to one of dung, in alternate layers, and in a pile four to six feet high, the mass will in a short time begin to ferment, when the whole will be found nearly as serviceable as yard dung. The mixture of earth with manure retards the fermentation of the latter, while the

earths receive and retain the fertilizing matters which the manure parts with.

*Second.* It will be seen from what has already been said, that dung loses one half of its value by being permitted to exhaust the powers of fermentation in the yard, and very nearly that portion when suffered to rot in piles upon the field, without covering or admixture. The deduction from these premises is, that as far as practicable the fermentation and decomposition should take place in the soil, or in other words, that dung should be ploughed in before the volatile parts have escaped. And the view I have taken of the matter would seem further to imply, what most farmers already know, that the more simultaneous the operations of hawling, spreading and ploughing in are performed, the more are the fertilizing properties of manure preserved. Dung loses much by drying, after it is carried into the field, or spread upon the ground. The heat of our summers, and the rains which fall (and heat and moisture are the essential agents of putrefaction,) will ordinarily bring on a decomposition in the soil, to meet the wants of the growing crop. Nor are the mechanical effects of long manure upon the soil unworthy of consideration. The heat generated, and the gases evolved, by the fermentation of dung thus buried, render the soil light and porous, more permeable to the young roots, and more pervious to air, heat and moisture, the prime agents of vegetable nutrition. When dung ferments in large masses, the violence of the fermentation is great, and the loss of volatile matter in proportion to this violence. But when the process goes on in the soil, it is comparatively moderate, and the earth and growing plants absorb the volatile and liquid portions which it parts with.

Unfermented yard manures should be applied exclusively to hoed crops, as corn, potatoes, turnips, beans, &c. for two substantial reasons; first, because the culture of these crops tends to destroy weeds, &c. the seeds of which may be brought in with the dung; and secondly, because those portions of the manure which are first separated in the process

of fermentation, are better suited to these than to crops which do not require after culture. Unfermented dung, applied in any considerable quantity to wheat or barley, for instance, is apt to cause too rank a growth of straw, which is liable to become rusty and to lodge, and to produce light and imperfect grain. Manures, on the contrary, on which fermentation has exhausted its powers, and such there always will be upon a farm, may be applied to these latter crops, in moderate quantities, with manifest advantage. My practice induces me to believe, however, that the entire benefit of the manure to the hoed crops is saved by applying it to them in its unfermented state; and that it is as beneficial to the wheat when thus rotted in the soil, as it would be if rotted in the ordinary way, in the cattle yard, with the advantage, in the former mode, of the dung being far better incorporated with the soil.

There are three methods in ordinary use, of applying manure. 1. To bury it in hills or ridges; 2: to spread and leave it on the surface, particularly of meadows; and 3: to spread it broadcast and plough it in. The last, I think, is the best mode, not only in reference to the permanent improvement of the soil, but for the advantage of the coming crop. It will be generally found, at least in loose and permeable soils, that the roots of plants equal in length their culm or stalk, and sometimes exceed it. At an agricultural exhibition in the capitol, a few years since, spears of corn were taken from a box in which they had been grown in a loose soil, the stocks and leaves of which measured but twelve, while the roots measured seventeen inches. The food of plants is taken up by the spongeoles, on the fibres, communicating with the larger roots; and the conclusion seems to be a fair one, that roots, in a common field crop, penetrate every part of the soil, in pursuit of food, ere the crop attains maturity. Hence, if the manure is deposited in hills or ridges, the mouths of the plants are soon found to extend beyond the sphere of its influence, and are at least partially deprived of its benefit; whereas, if it is spread upon the whole

surface, these roots are constantly reaching, as they elongate, fresh supplies of food. And I think I may add, as a third reason, that long manure is intrinsically better for these crops, than that which has undergone fermentation. Besides, where long dung is applied in hills and ridges, and a dry season ensues, there is not moisture enough to induce fermentation, and the manure proves injurious, rather than beneficial, to the crop. This will not happen where the manure is applied broadcast.

There is another species of manure available by every farmer, and of no trifling value, and which I am afraid does not receive the consideration it merits ; I mean greensward. It has been ascertained that the vegetable matter contained in an ordinary grass lay, exceeds twelve tons on an acre. This is all convertible into food for vegetables, and is, of itself, if not wasted by bad management, a good dressing for a crop. The same rules apply to this as to other vegetable manures : they are wasted by exposure upon the surface, after having been ploughed under. It is this consideration that has led to the substitution, by many of our best farmers, of fallow crops for summer fallows,—by which, they contend, they not only save the fertilizing properties of the sod, but actually gain a crop from the soil. The ploughing for a fallow crop may be performed, upon stiff soils, in the autumn, and upon those that are light in the spring, and the ground may be rolled and harrowed, previous to receiving the crop, which may consist of corn, potatoes, peas, beans or oats. Upon light clover lays, wheat may be sown upon the first furrow, immediately after ploughing, and harrowed in. In this way the food for the crop is placed where the roots naturally search for it, secure from the wasting influence of the sun and winds. Lorrain, who I consider the best American writer upon husbandry, and the best writer upon American husbandry, advises, and I am satisfied he does it upon sound principles, that the ploughing which is to follow the fallow crop be superficial, or shallow, so as to leave the unexhausted store of vegetable food below, where it will best subserve the wants

of the second crop. Where repeated ploughings and harrowings are given, as is ordinarily the case in summer fallows, the vegetable matter is necessarily thrown to the surface, and much of its fertilizing properties borne off by the winds.

The principal arguments which are urged in favor of summer fallows, are, 1. That they are necessary to clear foul lands of grass and weeds; and, 2. That upon stiff grounds, in particular, they ameliorate, by pulverising the soil, and rendering it more light and porous. In Great Britain the first consideration may have weight; but with us Indian corn, which is a cleansing crop, and which is planted upon almost every farm, renders a resort to naked fallows unnecessary upon light soils; and upon stiff lays, the cultivated crop gets so much the start, as to be very little affected by the weeds which subsequently spring up. In reply to the second argument, it may be remarked, that stiff grounds are generally retentive of moisture, and that after repeated ploughings and harrowings they are liable to be again rendered compact and hard by heavy rains. Whereas, when the furrow slices are lapped, every furrow becomes a sort of under drain, to receive and pass off the surface water, while the decay of the roots of the grasses renders the soil porous and permeable.

*Thirdly.* In speaking of specific manures, I am sensible I may be charged with venturing beyond the bounds of prudence. Yet the subject is so interwoven with my views of good husbandry, that I will run the hazard, relying upon the indulgence of my hearers for the errors I may betray. I assume as the basis of my remarks, that all plants take something in common from the soil, in the nature of food; and that in addition, different species, and perhaps all species, take something specific, necessary to their developement and perfection, which other species do not require, and do not take. It is upon this assumption alone, that we can explain the natural alternation of forest trees and grasses, or account

for the manifest advantages derived from a rotation of crops in husbandry. The old variety has exhausted its specific food, and hence fails, and a new variety, requiring a different specific food, comes in. The soil, or the atmosphere, must contain the elements of the new plant; and as vegetation is said to be incapable of decomposing common atmospheric air, the soil must be mainly relied on for the specific food of the crop. To illustrate my views, we will say that the elements of plants, generally, and of their products, are carbon, oxygen and hydrogen, all of which abound in common dung; but that wheat, besides these, contain nitrogen. Primitive formations contain nothing that gives nitrogen; and it would consequently follow, that primitive formations are not adapted to the growth of wheat, unless artificial applications that afford nitrogen, are first made to the soil. New England, with partial exceptions, is a primitive formation, and we very well know it is not congenial to the growth of this grain. The new lands, it is true, will often produce a crop or two, while the animal matter, which centuries has accumulated upon their surface, and which abound in nitrogen, remain unexhausted. And this may likewise happen where the manures applied are such as afford the specific food, as animal matters generally, urine, lime, &c. The failure does not arise from sterility. The straw of wheat may be made to grow as large in New-England as in New-York: yet the kernel will be small and comparatively shrivelled, for want of the nitrogen essential to perfect the gluten,—the substance which gives peculiar value, and which distinguishes this above all other grain. An extensive primitive region stretches through Pennsylvania and Maryland, contiguous to the great lime stone valley. In this lime is generally and extensively applied, and its efficacy to the wheat crop fully conceded. Clovers, and some of the other broad leaved plants, seem to find a specific food in gypsum, (sulphate of lime,) which, however, so far as my observation goes, is wholly inoperative upon wheat, rye, timothy, and some other farm crops.



The soil is the laboratory for preparing the food of vegetables, and fitting it for the delicate organs which are to absorb and transmit to the roots. Heat, air and moisture are the agents by which the process is carried on, and water the medium of conveyance. It has been demonstrated by vegetable physiologists, that the fluid matters which present themselves to the mouths of plants, are taken up without discrimination, carried through the alburnum or sap wood, to the leaves, the organs of respiration, where the process of elaboration is perfected; that the elaborated or proper sap, then descends through another set of vessels, in the inner bark, depositing in its way the materials for a new circle of wood and a new circle of bark, which in the course of the season become indurated; and that the plant having retained all that is adapted to its wants, the residue is thrown off at the roots, like the excrementitious matter of animals. I shall mention one of the experiments of Proff. Lindley, in corroboration of the latter fact. He took a fresh plant with two prominent roots, one of which he plunged into a vessel of pure water, the other into water containing poison. In a short time the pure water became sensibly charged with the poison, which had been taken up by the root in the poisonous liquid, passed through the circulation of the plant, and voided by the other root in the pure water.

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*Letter from JOHN LOWELL, Esq. on the construction of a  
GRAPE-HOUSE.*

*Boston, Dec. 21, 1833.*

DEAR SIR,

Serious indisposition, confining me to my chamber, has prevented an earlier reply to your inquiries as to the construction of my cheap grape-house.\* Your search would

\* Having seen and admired the grape-house of Mr. Lowell, and deeming his method of raising the foreign varieties of this fruit the best, if not the only successful one. which can be adopted in this climate, I wrote to him

have been vain for any publication respecting it, since none has been made. I have regretted, that I did not, when Mr. Prince first took public notice of this mode of raising grapes, give full directions as to the construction of houses upon this plan. I should have saved some time, having already furnished private description to 12 or 15 persons. My house is 50 feet long, 12 feet wide, 12 feet high in the rear, and about 2 feet high in front from the ground on the outside. In the interior, a walk 2 feet wide, about 18 inches from the front line, is dug out 3 feet deep, so as to enable the person who trims the grapes to walk without much stooping. The ground on each side of this excavated walk, is kept up and prevented from falling into it, simply by planks and strong stakes, which, in such a place, will last about 20 years.

The relative height I have given will give the slope desired, which will be not far from an angle of  $45^{\circ}$ . I think this not very material, provided it fluctuates any where between  $40^{\circ}$  and  $50^{\circ}$ . The objects to be attained by a roof at least as steep as the lowest just mentioned, are 1st, greater heat in the months of April and May, when your vines most require it. 2. Security from heavy bodies of snow, and more rapidly ridding the roof of it by solar heat. 3. A diminution of

for a description of his house, for my own guidance in constructing a like one, as well as with a view to its publication.

It will not be amiss to supply some facts which Mr. Lowell has omitted, in his letter. Posts set firmly in the ground, with plates in front and rear, and rafters, constitute the frame of the grape-house. The posts are planked on the outside, and boarded on the inside, and the interval between the lining and the outside covering filled with sea-weed, the better to retain the heat, or to exclude the cold. Straw, or dry tan, would be a good substitute for the sea-weed. The glass upon the sun side occupies an area of 600 square feet, and is comprised in 28 sashes, in two ranges, which slide upon 15 rafters. *There is no artificial heat applied to the house.* The total cost of Mr. Lowell's building, as that gentleman informed me, was \$120. The varieties of the grape which I saw in it were principally the black Hamburg and white Chasselas. The crop was very great, and the fruit in excellent condition. Some of the finer American kinds, as Blands Virginia, &c. would probably ripen in high perfection in a grape-house, which they seldom do here in the open ground. I design to introduce 14 or 15 vines into a house of the dimensions of Mr. Lowell's, to be reduced in number as occasion may require. The American public are greatly indebted to the distinguished writer of this letter for his eminent services in promoting improvements in our horticulture and agriculture. J. B.

breakage of glass. It is now well ascertained, that 3-4ths of all the breakage arises from the freezing of the water collecting in the laps—by reducing these laps to 1-8th of an inch, and by giving a rapid descent to the roof, much of the damage is avoided. The difference between a flat roofed green-house on the old fashioned plan, and my new grapery in this respect is, that the repairs of glass for 36 feet of the former amounts to 20 dollars a year, and for fifty feet of the latter to 5 dollars. My glass extends quite to the top, leaving no unglazed roof. This is done to enable me to raise nectarines and figs on the back wall.

The grapes are planted outside, and are introduced under the rafters, at from a foot to two feet above ground; but care must be specially taken to cover with earth or manure that part of the stem which is outside. On the inside my grapes remain all winter attached to the wires, and have never lost a bud. My grapes are trained, as you probably recollect, on wires, which are stretched longitudinally through the eyes of iron dogs driven into the rafters, and are suspended at the distance of 4 inches below the lower sides of the rafters; and as the rafters are 6 inches deep, the vines are at 10 inches below the glass—a point highly worthy your notice: for as the foot-stalk of the vigorous leaves of the vine are long; as they equally seek the light and press towards the sun, if they touch the glass they are very apt to be scorched and seriously injured.

The upper glasses must slide down, and must be let down at least a foot every bright day, from 8 A. M. to 5 P. M. One hours neglect under a scorching sun, especially after wet weather, may be fatal to a whole crop. In summer pruning I would always stop every shoot at 10 feet or less, and every shoot *with fruit* at the second eye above the bunch, unless from a deficiency of suitable wood low down, it should be necessary to spare one or two for next year's bearing. My belief is in favor of spare watering upon the foliage at *all* seasons, and no watering whatever from the time of the second

swelling and incipient colouring. My guide is the climate of Malaga, Languedock and Naples. Some sensible remarks have been made on that topic, by Williams of Pitmaston, the most practical writer in the modern history of British horticulture. I can add three years of personal success. I would keep my grapes as dry as dust from the 10th of July to the ripening of the fruit.

If you will address me any queries I shall be happy to reply to them ; but I fear least I should say what is not required.

I am, dear sir,

Very respectfully,

Yours,

J. LOWELL.

J. BUEL, *Esq.*

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*Communication from* HENRY D. GROVE, *on* SHEEP  
HUSBANDRY.

The breeding of fine woolled sheep has become an important branch in agriculture and industry. Many writers have written very ably on the subject, and much useful and interesting information has been circulated. It might therefore seem presumptive in me, to say any thing more on the subject, had not circumstances given it a new view, and if this branch of agriculture, like every other, were not continually advancing to improvement. The growing of fine wool shews itself certainly in a different point of view than when merinos were first introduced, and even but a few years ago. During some years this branch of industry combated many difficulties ; prejudice and the old routine were predominant with the farmer. It was also thought that this country would not admit of raising the finest kind of wool ; but at present the intelligent and observing farmer is otherwise convinced. And the period has arrived, when the utmost attention ought to be paid to the quality as well as to the quantity, and produce

that kind of wool of which the country is immeasurably deficient, but towards the supplying of which it is making rapid strides. I will not go into an examination of the motives which caused a part of the wool-growers to improve the carcase and heft of fleece more than fineness and quality. Many owners of flocks undoubtedly have not a clear conception of the condition in which the wool business is at present, and the aim after which they ought to strive. It would be in vain to depend for the prosperity of their flocks on the measures of the general government alone : These may be ever so wise, and executed with the strictest attention, but they would be without much effect if the wool-grower has not a right idea of his own business.

The study of wool has not received that attention which it merits. Many breeders of sheep managed their flocks by *chance*, any how. But it must be confessed, however, that many manufacturers showed a sort of indifference as to the quality of the wool, and wool-growers receiving their opinions fell into the same error--prompted, probably, by a temporary profit. However, the manufacturers have, in the path of accomplishment, made advances every year ; and the more the art of manufacturing improves, the more skill they get in judging of the raw material they use. For the mean time the producer should keep pace with the manufacturer, as it in my opinion can but improve their condition ; as they will not be liable to be imposed upon much by the purchaser, if they know the relative affinities and qualities of their own wool. And let me here remark, that in my opinion, founded on my own experience, this country is well calculated to raise fine wool ; and is far superior to it than Germany, and even Saxony herself, where it is well known the finest wool is raised. All the requisites for raising fine wool are bountifully supplied. Healthy and sweet pastures, pure water and a pure air, are elements in which sheep delight. If we only do our duty and manage our flocks as we ought, success is almost certain.

The study of fine wool and management of sheep, has been an interesting employment to me, and much time have I devoted to these interesting animals. Having had opportunities to acquaint myself with the mode of managing sheep in Germany, and for the last five years having kept a flock of full-blooded Saxon sheep in this country, I will submit a few remarks

*On the feeding and care of Sheep.*

1st. *Of summer feeding.*—This consists generally in pasturing. For particular local situations it would be advisable to keep them in the yard, as is the case with some flocks in Saxony, and feed them with green clover, lucerne, esparcette,\* or vetches and horse-beans sowed together, and fed in racks. Pastures ought to be free of boggy and marshy places—in general more dry than wet, is indispensably necessary, for the grass and other plants which grow in such places, even should they become dry by continued dry weather and the heat of the sun, is extremely injurious, as it causes relaxation in the organization of the sheep, which cannot perform the functions of secretion, and the most fatal disease, the rot, will follow.

By what is said above it follows, that pasture seeded with herdsgrass, clover, &c. turnip fields especially sown for that purpose, stubble fields and hilly pastures, are well adapted and healthy for sheep; but the main condition is that such pastures be not wet, and afford sufficient nourishment. The old maxim, that sheep will not eat bad grass as long as they can satisfy their appetites on good, holds true here: they shun or avoid places where unhealthy grass grows by instinct. Enough healthy nourishment therefore is the best remedy for sheep against eating bad plants.

Next to the above requisites, pure water, with which the animals may slake their thirst, is an important object to the animals. Where they have access to water once or twice a day, they will never drink too much and hurt themselves, but where they are debarred from it, by prejudice or other-

\* Sanfoin.

wise, they are apt to drink of the first puddle they come to, and infallibly hurt themselves ; whereby, probably, the old prejudice arose, that water is hurtful to sheep to drink.

For the reason that wet grass, eaten in duration, is detrimental to the health of sheep, farmers in Germany do not let their flocks go to pasture in the morning till the dew is almost off the grass. If by continued wet weather it cannot be avoided to pasture on wet grass, a foddering of dry fodder, if but of straw, is very useful and necessary, together with a mixture of juniper berries and other aromatic herbs and salt once a month. Latterly I have found tar to answer as good a purpose. These are not only useful but necessary provisions to preserve the organs of the whole system against relaxation, arising from protracted wet pasture.

2d. *Of winter feeding.*—To the keeping of sheep during the foddering season, is good hay from dry meadows, well cured clover cut when in full blow, lucerne, &c. ; all kinds of roots, such as potatoes, turnips, carrots, mangle-worzel, &c. are also beneficial and serviceable. One needs only by regular feeding, proportion the quantity to their nourishment, to suspend the feeding of grain altogether ; but when the raising of roots is not attended to, some grain ought to be fed, especially to lambs.

In respect to feeding, it is generally acknowledged that the quantity and quality ought to be adequate to the nature and economy of the animal, to keep it in good and thriving condition, bordering on being rather fat without going over to fatness. It cannot be denied that fatness stimulates sheep and disposes them to sickness. Leanness, when occasioned by too little nourishment, on the contrary, causes weakness and disposes to sickness, besides such animals shearing less wool. He who cannot maintain his sheep vigorous, or is not disposed to do so through ill advised economy, may not expect to make his fortune by fine sheep.

Periodical changes between abundant and too little nourishment, is not less detrimental. It endangers health and strength, or both may severely suffer, and the wool grow uneven and thus become reduced in value. It cannot be under-

stood, however, that ewes rearing lambs, and rams during the rutting season, ought not to be better fed than without these circumstances ; on the contrary, it is necessary to give them more nourishment, since there is more chyle and strength wasted.

In respect to the effect of grain, roots and hay upon the increase of flesh, wool and tallow of fine sheep, we are indebted to M. de Raumer, for his experiments, which throw much light upon the subject, and whose results are the more creditable since they are in accordance with the experience of others. I communicate his results because they may be considered as a sure basis in this matter.

1000 lbs.	Potatoes, raw, with salt,
1000 „	do. without salt,
1000 „	Mangel-worzel, raw,
1000 „	Pease,
1000 „	Wheat,
1000 „	Rye, with salt,
1000 „	do. without salt,
1000 „	do. meal, wet,
1000 „	Barley,
1000 „	Oats,
1000 „	Buckwheat,
1000 „	Good hay,
1000 „	Hay with straw, with't other fodder,
1000 „	Whiskey-still grains or wash,

Potatoes, raw and cut into slices, sheep ate with good appetite and greediness in duration—one sheep ate daily 7lbs. with straw interchangeably after the potatoes : they remained lively and healthy, and drank 1 1-2 quarts of water per head in 24 hours.

Mangel-worzel sheep ate with greediness, 8lbs. per head daily in duration, interchangeably with straw as with pota-



toes : they drank 1 quart of water per head in 24 hours, and remained likewise healthy.

**Pease**, 2lbs. per head daily readily eaten in duration : drank from 2 to 3 quarts of water per head in 24 hours, and remained perfectly healthy. In an unsoaked condition pease are hard for sheep to eat and wear their teeth.

**Wheat**, sheep ate greedily 2lbs. per head in duration, and drank from 2 to 3 quarts of water in 24 hours ; made them very lively, and remained perfectly healthy.

**Rye**, sheep do not eat readily, and it does them little good, as is exhibited in the above results of the increase of weight : they drank from 2 to 3 quarts of water daily.

**Barley**, 2 1-2 lbs. per head daily in duration with greediness, and sheep do extremely well on it : they drank 3 quarts of water per head in 24 hours.

**Oats**, had the same effect as barley upon the appetite and health.

**Buckwheat**, sheep eat with great avidity, and with the best results upon the health and liveliness of the animals.

**Good hay**, 4 1-2 lbs. per head daily in duration, and drank 2 1-2 to 3 quarts of water in 24 hours.

**Flag hay**, rush, &c. the lighter and the less sheep eat of it the better, as it makes them weak and inactive ; and two of the sheep on which the experiments were made, became sick—one was killed, the liver and gall of which were found infected, and the other died.

**M. de Raumer** also considers, in accordance with **M. Von Thaer**,

1 lb. oil-cake meal to be as nutritious as 2 lbs. of hay.

80 „ clover hay,\* like 100 lbs. ordinary hay.

84 „ vetches, exparsette and lucerne, the same.

200 „ good sound straw of pease and vetches like 100lbs. hay.

300 „ barley and oat straw like 100 lbs. hay.

400 „ wheat straw like 100 lbs. hay.

\* The clover in Germany is finer than that in this state—resembling more the Pennsylvania clover. It is cut when in full blow and well cured in small cocks. If clover is spread it loses a considerable share of the leaves, which reduces it in goodness.

100 lbs. turnips nourish as much as 40 lbs. potatoes or 50 lbs. mangel-worzel.

The above I have for a number of years, say 12 or 13, taken as my guide in foddering sheep, and have found that my flock did extremely well whenever I proportioned their food according to nutritiousness, and in such manner as that 2 lbs. of good hay would give to each animal. If, therefore, I fed potatoes or other roots or grain, I gave straw with it in order to fill the belly. The best way I have found to be, a foddering of straw in the morning before roots. It seems to be congenial to the nature and economy of the sheep, and digests better than roots on an empty stomach. This practice is pursued by the most intelligent breeders of sheep in Germany.

Shelter against the inclemency of the weather is the third consideration in the care of sheep. It is almost as necessary to the health and good condition of the sheep as food itself, and for this reason stables built for that purpose are of great benefit. Not only do sheep do much better, but it is also a great saving of fodder and manure. The latter is as important as the former; for manure, properly applied, is money to the farmer—and it is well known that sheep manure is of the best kind. These stables ought to be so constructed as to admit of great quantity of hay being put over head; and for this reason I would recommend a side hill facing the south, and a dry spot around it, for their location. Each full grown sheep requires six square feet including racks. These ought to be so constructed as to have a manger attached to each, for the purpose of feeding grain and roots, and to catch the hay the sheep draw through the racks. The stables ought to be eight feet high at least, nine feet is preferable, and sufficiently ventilated. It is also necessary to have windows for the purpose of light. The difference between wool grown in a dark and light stable is really surprising: In a dark one, wool does not get the brightness it has in a light one—Of this fact I have witnessed the most surprising proofs. Over head the stable ought to be tight, that no fodder, chaff, &c. may fall

into the wool, which reduces it in value. The stables ought to be littered with straw from time to time, to keep the wool clean and add to the comfort and health of the animals.

In the foregoing pages I have given, in an imperfect manner, (not understanding the English language correctly) a few hints on the care and management of sheep. Should they be of any benefit to my brother farmers, the writer will consider himself amply paid.

HENRY D. GROVE.

*Hosick, Rensselaer Co. N. Y. Dec. 31, 1832.*

JESSE BUEL, Esq. Cor. Sec'ry.

[This gentleman has been familiar with the management of sheep from early youth, in a country which excels in fine wool. His management of them here has hitherto been uncommonly successful, not losing one in a hundred, I am informed, during a winter. No sheep farmer can fail to derive advantage from a visit to this intelligent and unassuming foreigner. J. B.]



*Communication from JESSE BUEL, Esq. on the culture of  
INDIAN CORN.*

There is no crop more beneficial to the American farmer than Indian corn. An eminent agriculturist, the late John Taylor of Virginia, called it the "meal, meadow, and manure," of the farm. It is convertible into human food in more forms than any other grain; its value in fattening domestic animals is not exceeded by any product of the farm; and no crop returns more to the soil than this does in the form of manure. There are two important requisites, however, to its *profitable* cultivation. The first is, that the soil be adapted to its growth; and the second, that the crop be well fed and well tended: for food and attention are as important to the plant as to the animal. Ordinarily speaking, it costs less to take care of a good crop of corn, on proper corn land, than it does of a bad crop on land not adapted to its culture. The first is light and dry. The latter stiff, wet or grassy. I put the average expense of cultivating and securing an acre, at \$15, (*a*) including a fair rent, though it ordinarily exceeds this sum. The farmer, therefore, who ob-

tains thirty bushels from the acre, estimating the grain at 50 cents per bushel, gets a fair compensation for his labor, and the use of his land. Whatever the product falls short of this is an absolute loss; and whatever it may exceed it is net gain. Thus the man who gets but twenty bushels from the acre, loses upon this estimate, \$20 worth of his labor, on four acres. He who raises 80 bushels an acre, on the other hand, realizes a net profit of \$100 from four acres—making a difference in the profits of the two farmers, in the management of four acres of corn, of *one hundred and twenty dollars*! These data are sufficiently accurate to show the importance of the two requisites I have suggested, and the value of a little calculation in the business of farming. The habit of noting down the expense, as well as the product of a crop, and thus ascertaining the relative profit and loss, is highly advantageous to the practical farmer, and one which cannot be too strenuously inculcated. It will perhaps be said, that I ought to add the value of the manure which is employed in the large crop; but I reply, that I offset this against the increased forage which this crop furnishes. Besides, by applying the manure in the unfermented state in which it is generally found in the spring, it will be as beneficial to the succeeding crops, as though it had lain and fermented in the yard, and been applied in the usual way in the autumn. (b)

*The soils adapted to the culture of Indian corn*, are such as are permeable to heat, air (c) and the roots of the plant, and embrace those denominated sandy, gravelly and loamy. Corn will not succeed well on grounds that are stiff, hard or wet. The roots grow to as great a length as the stalks, and the soil must be permeable to permit their free extension.

*The manures used* are generally yard and stable dung, and plaster of paris, (*sulphate of lime.*) The first ought to be abundant; as upon the fertility which it induces, depends the profit of the crop. Long or unfermented manure is to be preferred. It decomposes as the wants of the plant require it; while its mechanical operation, in rendering the soil light

and porous, is beneficial to the crop. It should be equally spread over the whole surface, before it is ploughed under. It then continues to afford fresh pasture to the roots till the corn has matured, and is in its place to benefit the succeeding crop. If put into the hills, the roots soon extend beyond its influence, it does not so readily decompose, and the subsequent crop is prejudiced from its partial distribution in the soil. In a rotation of four or five years, in which this crop receives the manure, twenty-five or thirty ordinary loads may be applied to *one* acre with greater profit, than to *two* or *three* acres. Every addition tells in the product ; and there is scarcely any danger of manuring too high for this favorite crop. Gypsum is applied broadcast before the last ploughing or harrowing, or strewed on the hills after hoeing. I pursue the first method, at the rate of a bushel to the acre. (*d*)

*The best preparation for a corn crop* is a clover or other grass lay, or lea, well covered with a long manure, recently spread, neatly ploughed, and harrowed lengthwise of the furrow. A roller may precede the harrow with advantage. The time of performing these operations depends upon the texture of the soil, and the quality of the sod. If the first is inclining to clay, or the latter tough or of long continuance, the ploughing may be performed the preceding autumn ; but where sand or gravel greatly preponderate, or the sod is light and tender, it is best performed in the spring, and as near to the planting as convenient. The harrow at least should immediately precede planting. All seeds do best when put into the fresh stirred mould. Stiff lands are ameliorated and broken down by fall ploughing ; but light lands are rather prejudiced by it. When corn is preceded by a tilled crop, the ground should be furrowed, and the seed deposited in the bottoms of the furrows. Where there is a sod, the rows should be superficially marked, and the seed planted upon the surface. Where the field is flat, or the sub-soil retentive of moisture, the land should be laid in ridges, that the excess of water which falls may pass off in the furroughs.

*The time of planting* must vary in different districts and in different seasons. The ground should be sufficiently warmed by vernal heat to cause a speedy germination. Natural vegetation affords the best guide. My rule has been to plant when the apple is bursting its blossom buds, which has generally been between the 12th and 20th of May.

*Preparation of the seed.* The enemies to be combated are the wire worm, brown grub, birds and squirrels. Of these the first and two last prey upon the kernels, and against these tar offers a complete protection. I soak my seed 12 to 20 hours in *hot* water, in which is dissolved a few ounces of crude salt petre, and then add (say to 8 quarts of seed) half a pint of tar, previously warmed and diluted with a quart of warm water. The mass is well stirred, the corn taken out, and as much plaster added as will adhere to the grain. This impregnates and partially coats the seed with the tar. The experience of years will warrant me in confidently recommending this as a protection for the seed.

*The manner of planting* is ordinarily in hills, from two and a half to six feet apart, according to the variety of corn, the strength of the soil, and the fancy of the cultivator. The usual distance in my neighborhood is three feet. Some, however plant in drills of one, two and three rows, by which a greater crop is unquestionably obtained, though the expense of culture is somewhat increased. (e) *The quantity of seed* should be double, and may be quadruple (f) what is required to stand. It is well known that a great difference is manifest in the appearance of the plants. Some appear feeble and sickly, which the best nursing will not render productive. The expense of seed, and the labor of pulling up all but three or four of the strongest plants in a hill, it is believed will be amply remunerated by the increased product. If the seed is covered, as it should be, with fine mould only, and not too deep, we may at least calculate upon every hill or drill having its requisite number of plants.

*The after culture* consists in keeping the soil loose and free from weeds, which is ordinarily accomplished by two dressings, and in thinning the plants, which latter may be done the

first hoeing, or partially omitted till the last. The practice of ploughing among corn, and of making large hills, is justly getting into disrepute : for the plough bruises and cuts the roots of the plants, turns up the sod and manure to waste, and renders the crop more liable to suffer by drought. The first dressing should be performed as soon as the size of the plants will permit, and the best implement to precede the hoe is a corn harrow, adapted to the width of the rows, which every farmer can make. This will destroy most of the weeds and pulverise the soil. The second hoeing should be performed before or as soon as the tassels appear, and may be preceded by the corn harrow, a shallow furrow of the plough, or what is better than either, by the cultivator. (*g*) A slight earthing is beneficial, providing the earth is scraped from the surface, and the sod and manure not exposed. It will be found beneficial to run the harrow or cultivator a third, and even a fourth time, between the rows, to destroy weeds and loosen the surface, particularly if the season is dry. (*h*)

*In harvesting the crop*, one of three modes is adopted, viz. 1. The corn is cut at the surface of the ground, when the grain has become glazed, or hard upon the outside, put immediately into stooks, and when sufficiently dried, the corn and stalks are separated, and both secured. 2. The tops are taken off when the corn has become glazed, and the grain permitted to remain till October or November upon the butts. Or, 3. Both corn and stalks are left standing till the grain has fully ripened, and the latter become dry, when both are secured. There are other modes, such as leaving the butts or entire stalks, in the field, after the grain is gathered ; but these are so wasteful and slovenly as not to merit consideration. The stalks, blades and tops of corn, if well secured are an excellent fodder for neat cattle. If cut, or cut and steamed, so that they can be readily masticated, they are superior to hay. Besides, their fertilizing properties, as a manure, are greatly augmented by being fed out in the cattle yard, and imbibing the urine and liquids which always there abound, and which are lost to the farm, in ordinary yards, without an

abundance of dry litter to take them up. By the first of these methods, the crop may be secured before the autumnal rains; the value of the fodder is increased, and the ground is cleared in time for a winter crop of wheat or rye. The second mode impairs the value of the forage, requires more labor, and does not increase the quantity, or improve the quality, of the grain. The third mode requires the same labor as the first, *may* improve the quality of the grain, but must inevitably deteriorate the quality of the fodder. The corn cannot be husked too promptly after it is gathered from the field. If permitted to heat, the value of the grain is seriously impaired. (i)

*Saving seed.* The fairest and soundest ears are either selected in the field, or, at the time of husking, a few of the husks being left on, braided and preserved in an airy situation till wanted for use.

*In making a choice of sorts,* the object should be to obtain the varieties which ripen early, and afford the greatest crop. I think these two properties are best combined in a twelve rowed kind which I obtained from Vermont some years ago, and which I call Dutton corn, from the name of the gentleman from whom I received it. It is earlier than the common eight rowed yellow, or any other field variety I have seen, and at the same time gives the greatest product. I have invariably cut the crop in the first fourteen days of September, and once in the last week in August. The cob is large, but the grain is so compact upon it, that two bushels of sound ears have yielded five pecks of shelled grain, weighing 62 lbs. the bushel.

*In securing the fodder,* precaution must be used. The butts become wet by standing on the ground, and if placed in large stacks, or in the barn, the moisture which they contain often induces fermentation and mouldiness. To avoid this I put them first in stacks so small, that the whole of the butts are exposed upon the outer surface; and when thoroughly dry they may be taken to the barn, or left to be moved as they are wanted to be fed out—merely regarding the propriety of removing a whole stock at the same time.



## NOTES.

*(a) Estimated expense of cultivating an acre of Indian corn:*

One ploughing, (suppose a clover lay)	\$2 00
Harrowing and planting	2 00
Two hoeings, 4 days and horse team,	3 75
Harvesting, 2 days	1 50
Cutting and harvesting stalks,	1 50
Rent,	5 00
	— \$15 75

*(b)* Stable and yard manures lose 50 per cent. by the fermentation they undergo in the yard during the summer. This loss consists of the gasses which are evolved in the process of rotting, and of the fluids which sink into the earth, or are carried off by the rains. Plants receive their food either in a gaseous or liquid form. If manure rots in the soil, neither these gasses or fluids are lost: the earth retains, and the roots of the plants imbibe them. Yet recent manures are not proper to be applied to small grains. They cause too rank a growth of straw, and are apt to induce rust and mildew. Thus a crop of corn, potatoes, or ruta бага may be *fed* and *fattened*, if I may use the expression, upon the dung which is destined to nourish the wheat crop, without deteriorating its value for the latter purpose, if it is applied to the corn, &c. before it has fermented.

*(c)* We are on the northern border of the maize zone, and should make up for defect in climate by selecting soils into which the heat readily penetrates. Air, besides conveying warmth in summer, imparts fertility by the vegetable food which is always suspended in it in the form of gases. Dews are also charged with these properties of vegetable nutriment, and when the soil is porous, they settle down as in a sponge, and impart fertility to the roots (the true mouths) of plants.

*(d)* I adopt the opinion of Davy, as the *modus operandi* of plaster of paris, that it forms a necessary constituent of plants which it benefits, and is of no direct benefit to plants which do not afford it on analysis. Among the first are the clovers, corn, potatoes, and generally such plants as have broad or succulent leaves; while the latter embrace culmiferous grains and grasses, as wheat, rye, timothy, &c. Critical observation for years has confirmed me in this conclusion. Gypsum must be rendered soluble before it can be taken up by the mouths of plants, and it requires 600 parts of water to dissolve one of this mineral. I infer from these facts, that by burying it in the soil, it more readily dissolves, and is more accessible to the mouths of plants, than if spread upon the surface of the ground. I am induced, from these views of the subject, to sow plaster, on grass grounds, in March, and upon corn and potato grounds before the last ploughing for these crops. The latter was recommended and practised by the distinguished agriculturists, the late Mr. Taylor of Virginia, and Judge Peters, of Pennsylvania.

*(e)* The following table exhibits the difference in product of various methods of planting, and serves also to explain the manner in which large crops of this grain have been obtained. I have assumed in the estimate, that each stock produces one ear of corn, and that the ears average one gill of shelled grain. This is estimating the product low; for while I am penning this (October) I find that my largest ears give two gills, and 100 fair ears half a bushel of shelled corn. The calculation is also predicated upon the supposition, that there is no deficiency in the number of stocks, a contingency pretty sure on my method of planting.

	Hills.	bush.	qts.
1. An acre in hills, 4 feet apart, each way, will produce	2722	42	16
2. The same, 3 by 3 feet,	4840	75	20
3. The same, 3 by 2 1-2 feet,	5808	93	23
4. The same in drills, at 3 feet, plants 6 in. apart, in the drills,	29,040	113	14

5. The same in do. 2 rows in a drill, 6 in. apart, and the plants 9 inches, and 3 feet 9 inches from centre of drills thus,	stalks.	bush.	qts.
	30,970	120	31
6. The same in do. 3 rows in a drill, as above, 3 ft. from centres of drills,	43,560	170	5

The fifth mode I have tried. The ground was highly manured, the crop twice cleaned, and the entire acre gathered and weighed accurately, the same day. The product in ears was 103 baskets, each 84 lbs. net, and 65 lbs. over. The last basket was shelled and measured, which showed a product on the acre of 118 bushels 10 quarts. I gathered at the rate of more than 100 bushels the acre, from four rods planted in the third method, last summer, the result ascertained in the most accurate manner. Corn shrinks about 20 per cent after it is cribbed. The sixth mode is the one by which the Messrs. Pratts, of Madison county, obtained the prodigious crop of 170 bushels per acre. These gentlemen, I am told, are of opinion, that the product of an acre may be increased to 200 bushels.

(f) I am told the Messrs. Pratts, above alluded to, used seven bushels of seed to the acre, the plants being subsequently reduced to the requisite number.

(g) The cultivator is made in the form of a triangular harrow, with two bulls; or if intended to be graduated to different widths, a centre bull is added, to which the exterior ones are attached by hinges. Iron slats, fixed to the exterior bulls, pass through a mortice in the centre one, perforated with holes, through which an iron pin passes to hold them at the graduated width. The teeth may be in any approved form, or reasonable number. The cultivator I use has five teeth, two in each of the outward, and one upon the centre timber. The teeth have a stout shank, with a duck's foot termination, four inches broad, somewhat cylindrical, rounded at the point, and inclined forward in an angle of 30 or 40°. This implement is useful for other purposes; and may be used, like Beaton's, as a substitute for the plough, in preparing light soils for a crop. The handles are attached to the centre piece. The teeth have a shoulder, on the under side of the timber, and are fastened with screws and nuts above.

(h) Some entertain a mistaken notion, that it is prejudicial to stir the soil among corn in dry weather, and others that weeds serve to prevent the evaporation of moisture by a hot sun. The reverse of these opinions is true. The exhaustion of moisture by a plant is in the ratio of the surface of its leaves and stocks presented to the sun and air.

(i) The leaves are the necessary organs for elaborating the food of plants, and when these are taken away the plant must cease to grow. The sap is useless until it undergoes elaboration in the leaves. Hence, when corn is topped in the usual way, the supply of food is cut off from the grain, except what may be elaborated in the husks. On comparing corn gathered by the first and second modes, it was the opinion of those who assisted in husking, that the first was soundest, brightest and heaviest. The third mode I have not tried. But it seems probable, that the grain might acquire an increase of volume, though it would lose again by depredation and waste. The first method has these further advantages that it preserves the cob from being saturated with rains, and secures the fodder, when it is in its highest perfection and greatest quantity.

*Letter from A. KNICKERBACKER, Esq. on PRACTICAL HUSBANDRY.*

*Schaghticoke, October 25, 1832.*

SIR,

I received your circular of the 24th Feb. together with the constitution and by-laws of the New-York state agricultural society, and a packet of mulberry seed. And I now proceed, agreeable to your request, to give you some outlines of my farming, and of my observations in practical husbandry. The improvements in labor, in the expense of tillage, and in the other operations of husbandry, I think have produced a saving in expense, in the last fifteen years, of nearly fifty per cent.

Horses constitute our principal teams for tilling the soil and transporting our produce to market. Very little improvement has been made in their breed among us for the last 25 years. To be adapted to farm labor, these animals should have straight limbs, short neck, large boned breast, thick boned legs, common sized hoofs, thick main and tail, be well filled up in the flank or short ribs, and sixteen and a half hands high. A straight back denotes toughness for service of any kind. These points are best united in what we call Dutch horses. The encouragement given to racing, and the introduction of breeds adapted to that object, seems to be the principal causes of our working horses being poorer than they were twenty-five years ago. In race-horses lightness of form, and swiftness of motion are most desirable; but farmers require in their horses strength of muscle and limb, which are not to be acquired by encouraging breeds of opposite qualities.

In tillage husbandry, great additional profit is obtained by sowing about 4 lbs. clover seed per acre with small grains, which answers on intervale lands, where plaster has no effect. This answers well for a bed of manure, when ploughed under, and will bear good crops for six years in succession. My course is corn, barley, pease or flax, and sometimes oats, and when these are gathered, I plough for wheat the same season, and sow in September. After the wheat is harvest-

ed, the field is pastured till spring, when I again plough for corn, and treat as before, until the second crop of wheat comes round, when it is sown in the spring with clover. The clover is mown one year, pastured, and the ground ploughed for wheat the same season. By so doing, land will improve instead of deteriorating, and will net an annual income equal to any bank stock, and certainly much pleasanter. Elevated lands will produce a good crop three years in succession, if the soil be gravel or sand, by adding a bushel of pasture to 4 lbs. of clover seed per acre, and treated as above. Clay soil requires animal manure as often as every three years, then treated as above it will produce a good crop. Farming business thus conducted, if the season is good, will produce a crop of any kind. I have found that it is better to spread animal manure mixed with straw or hay when fresh and plough it in, so as to have the fermentation take place under ground, thus preventing the heat of the atmosphere from producing too rapid a fermentation, that its properties may be absorbed by the soil.

The principal object for which lime is to be used in the cultivation of grain, is to prevent the ravages of insects. This is done by soaking the grain to be sown in lime-water, and then rolling it in plaster of paris.—I have been troubled this season by the weavel upon my wheat : it appeared about the first of July, in the form of a small yellow worm, upon each kernel of wheat under the chaff. It disappeared after the first shower of rain. After the wheat was gathered we discovered great numbers of flies upon the straw, which we supposed to be the weavel in another state : they have six legs and a sharp pointed proboscis ; are of a light colour, afterwards becoming dark ; have wings but do not seem to fly. It is now October and these flies have not disappeared. They have come on gradually from the north, and have been found to continue about three years in a place. Is it not probable that the fly has deposited the eggs, to be seen in gathering next year's crop ? It is thought that tobacco is the best thing yet discovered to destroy them.

Flax should be sowed for a good crop after potatoes, and not oftener than once in seven years upon the same ground—which I have found by experience.—There have been within a few years great improvements made in the implements of husbandry. Among these the reversed horse-rake, in gathering hay, barley and pease, I have used for the last two years, and find it will enable one man and horse to do more work than six men in the common way, and do the work well.—I have this season purchased one of Humphrey's patent threshing machines. It is simple in its construction, and can be purchased for \$60. With one horse and two men I will engage to do the labor of 8 men, and thresh it perfectly clean. It leaves the straw almost full length, and worth more for fodder than it can be made in any other way.

The mulberry seed which I received from the society I divided between four or five friends and myself. We sowed it in drills, in different kinds of soil, about the 15th of May. The plants are all doing as well as could have been expected from the coldness of the season. They are from fifteen inches to two feet high.—I have tried for several years various methods of preparing cider. I have had the last year the best I ever made—Some I bottled without any addition, and to some I added a pint of mustard seed to a barrel. The latter is as clear as wine and of a delightful flavor ; keeping much better, provided it be tightly bunged.—Respecting the manufacture of cloth—In the first place we will take one pound of wool at 50 cents per pound, 6 cents for carding, 27 cents for spinning, 12 1-2 cents for weaving—Thus a yard and a half of flannel would cost 95 cents. Flannel of the same quality can be bought for less at the shops. As I am situated, having all my labor to hire, I find it better to sell my wool and buy goods to supply the wants of my family than to attempt to have them manufactured. But where a farmer has a large family of daughters, it is an object to manufacture as much as possible within themselves—it will pay their board and be useful employment. The same remark will apply to flax.

Of domestic wines—1st, Elderberry wine—To a quart of berries put a pint of water, and let them stand over night. In the morning mash them and let them just boil : then to a quart of juice put a pound of sugar, an ounce of cloves and a table spoonful of ginger to three gallons of water ; boil and skim till clear, and when nearly cold spread your yeast upon toast and put it in your cask ; let it work as long as it will, keeping your cask always full ; when done working seal and cork it tight. In preparing wine it is always necessary to burn a rag wet in sulphur in the bung-hole of the cask—This ought also to be done with cider.—Apples will keep better than any other way put up in oats packed and headed tight to keep them from the air.—In preserving fruits it is an improvement upon the usual method to let the fruit and syrup both be cold before they are put together.

Your friend,

A. KNICKERBACKER.

J. BUEL, Esq.

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*From the Hon. MICHAEL HOFFMAN.*

*House of Representatives, U. S.*

February 16, 1833.

DEAR SIR,

I enclose you extracts making almost an entire copy of Mr. Lawson's essay on the potato, including his list of the varieties cultivated in Scotland, and their qualities.

I believe the publication of this essay of Mr. Lawson would be useful. But I am most anxious to obtain a like examination of the varieties of this useful plant cultivated in our state, in order that our farmers may know which are the best and worst of these varieties. Without this knowledge the farmers will go on cultivating their usual and customary variety whether indifferent or bad : with correct information as

to the best and most valuable varieties, it is to be hoped that the farmers will abandon the cultivation of varieties, bad or indifferent—and devote themselves to the cultivation and improvement of the best varieties. Such will certainly be the course of all wise and prudent agriculturists; and it is reasonable to expect their example will soon be followed by all others, as well from considerations of interest, as from a desire to avoid the ridicule and reproach of persevering in error and folly.

With great respect, yours, &c.

MICHAEL HOFFMAN.

JESSE BUEL, Esq.

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*From the Quarterly Journal of Agriculture, &c. &c. of the Highland Society of Scotland, No. 19, December, 1832, p. 364.*

*“ On the principal varieties of the POTATO, cultivated in this country. By Mr. CHARLES LAWSON, Seedman to the Society.*

After some general observations on the potato, in which he expresses a doubt of the correctness of the opinion that the new varieties become bad by the age of about 14 years, Mr. Lawson says :

“ No doubt extensive experience has proved, that the cultivation of any particular variety of potato, for a continued succession of crops, in the same soil and situation, injures the quality, and diminishes the quantity of the produce. But this is a law applicable to all cultivated plants, and only shows that attention to the change of circumstances and to rotation, is also necessary in the cultivation of the potato.\*

\* Note by the transcriber. Manure well to waste money; and at the same time in your garden always plant your potatoes on the same spot, and you will probably succeed in *diminishing* the *quantity* of the crop, and be about certain to *change* a good into a very *bad* quality of potato. Such is the common practice, and such in general the result.

I proceed with further extracts :

“ What is wanted regarding the potato is,—

“ 1. The fixed application of a particular name to each of the more important varieties ;

“ 2. The determination of those varieties, the cultivation of which ought to be abandoned ;

“ 3. The indication of those more particularly adapted to particular soils, situations and purposes ;

“ 4. The knowledge of those to which we might look with most certainty as improvable by crossing.

“ With these views I have prepared the following descriptive table of the varieties which I had the opportunity of growing and examining this season.

“ There can be no doubt that a change of soil, climate and treatment, may alter the qualities of the tubers in a considerable degree ; but it appears to me not less true, that no circumstances will very materially change the general tendency to being early or late, the general form, the colour, or the general habit of growth.

“ I have therefore noted these particulars as affording collectively discriminative characters of sufficient value.

“ The tubers are composed of water, starch, fibrous matter, mucilage and saline extract. It is probable that the mealiness depends, either upon a due proportion of these principles, or upon the mucilage of some being more or less coagulable by heat than that of others ; or it may occasionally be affected by the acidity\* of the spring water, in which they are boiled. However this may be, I have noted the qualities of the different varieties as to their being mealy or waxy.

“ The comparative liability to disease is the next circumstance attended to. The mode of growth of the stems whether inclined to be erect or drooping, has also been noted.

“ The flavor, I apprehend, depends very materially on the

\* Note by the transcriber. Roasted potatoes of the same variety are in general more mealy than boiled ones ; and yet if the roasting be continued, it destroys the mealy quality as well as the flavor of the potato. Potatoes boiled in the waters impregnated with lime, as they are on the Mohawk, and most of the western counties, are mealy and good.



increased action† of the vital functions of the leaves, and does not admit of being very intelligibly expressed.

“The degree of productiveness is a matter of great importance, but can be expressed only by very general and rather vague terms.

“Although the same variety of potato, cultivated under different circumstances, may yield different proportions of its component parts, yet, as a comparative view of that ingredient of most importance in its application as food, namely, the starch, from the different varieties cultivated under the same circumstances, will afford a good criterion as to their relative value. I have ascertained this by rasping eight ounces of tuber of each variety, which being immediately mixed with a sufficient quantity of water, was poured on a fine hair-sieve, through which the water passed, carrying with it the white precipitate. The weight of this sediment, deposited from the filtrated fluid, after being thoroughly dried, is marked in the table. In those cases where the difference was great, to prevent the possibility of mistake, I made second trials. I think it likely, that had the macerated potato lain for a day, and been frequently stirred, the quantity of starch would have been greater; but as the whole were done exactly in the same way, the products answer equally well, as affording a comparative view.

“In the specimens of starch produced by the different varieties, a considerable difference was perceptible, both as to colour and texture; and on trying the specific gravity of twenty specimens, I found it to vary from 1 to 8 per cent.

“The fibres of eight ounces of tuber, when dried, weighed from 180 to 216 grains troy.

“The specific gravity of the tubers themselves, is nearly in the same ratio as that of the starch, as above indicated. A cubic inch of twenty of the varieties which I tried, weigh-

† Note by the transcriber. The very young potato is watery, and mostly destitute of flavor, and I believe nearly so of starch. Such is the quality of the tuber, while the stocks and leaves are in the most *growing* condition. After the leaves and flowers are perfected, and when they may be supposed most able to perform all their functions, the tuber improves—and continues to do so, until the leaves die of age.

ed from 295 to 312 grains. The comparison, however, requires to be made with greater accuracy than I can accomplish at present, in order to discover whether Mr. Knight's opinion, "that probably the nutritive property of the potato is nearly proportionate to its specific gravity"—be correct. In the mean time, however, my friend Mr. Macgillivray has obtained for me from Doctor John Murray, the specific gravity of six of the varieties, sufficiently adapted for contrast, namely :

No. 45, Late field kidney, . . . . .	1185
No. 36, Don, . . . . .	1121.9
No. 53, Emperor, . . . . .	1108
No. 24, Taylor's, . . . . .	1099
No. 49, Ox Noble, . . . . .	1094
No. 50, Yam, . . . . .	1051

"From these it will be seen by a reference to the table of the quantity of starch yielded by these varieties, that the starch increases in nearly the same ratio as the specific gravity, and thus that the correctness of Mr. Knight's opinion is proved.

"The potatoes in the list from No. 1 to 53 inclusive, were all grown on land of the same quality, viz. a rich loam of medium texture, and with decomposed stable manure.

"The sorts from No. 54 to No. 73 inclusive, were grown on rich sandy loam.

"In conclusion, I have only to express a hope, that the investigation of the qualities and capabilities of this valuable plant, will be followed out, so as to lead to important and practical results."



## USEFUL TABLE.

The number of plants which may be planted on an acre = 160 rods or poles = 4840 yards = 43,560 feet, is as follows :

Feet apart.	No. plants.	Feet apart.	No. plants.
1	43,560	11	360
1 1-2	19,360	12	302
2	10,890	13	257
2 1-2	6,969	14	222
3	4,840	15	193
3 1-2	3,556	16	170
4	2,722	17	150
4 1-2	2,151	18	134
5	1,742	19	120
6	1,210	20	108
7	889	25	69
8	680	30	48
9	537	35	35
10	435	40	27

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 ACT OF INCORPORATION.

*AN ACT to incorporate the New-York State Agricultural Society.*

Passed April 26, 1832.

*The People of the State of New-York, represented in Senate and Assembly, do enact as follows :*

§ 1. The New-York State Agricultural Society shall by that name and style be known for the term of twenty years as a body politic and corporate.

§ 2. The object of the society being to improve the condition of agriculture, horticulture and the household arts, they shall be allowed for those purposes only to take and hold real and personal estate, the former to the amount of twenty-five thousand dollars.

§ 3. The said corporation shall possess the general powers and be subject to the liabilities and provisions contained in title third of the eighteenth chapter of the first part of the Revised Statutes.

§ 4. The legislature may at any time alter, modify or repeal this act.

General powers and privileges contained in 15th ch. 3d title. R. Laws. as applicable to the preceding act.

§ 1. Every corporation, as such, has power,

1. To have succession by its corporate name, for the period limited in its charter ; 2. To sue and be sued, complain and defend, in any court of law or equity ; 3. To make and use a common seal, and alter the same at pleasure ; 4. To hold, purchase, and convey such real and personal estate, as the purposes of the corporation shall require, not exceeding the amount limited in its charter ; 5. To appoint such subordinate officers and agents, as the business of the corporation shall require, and allow them a suitable compensation ; 6. To make by-laws, not inconsistent with any existing law, for the management of its property, the regulation of its affairs, and for the transfer of its stock.

§ 2. The powers enumerated in the preceding section, shall vest in every corporation that shall hereafter be created, although they may not be specified in its charter, or in the act under which it shall be incorporated.

In addition to the powers enumerated in the first section of this title, and to those expressly given in its charter, or in the act under which it is or shall be incorporated, no corporation shall possess or exercise any corporate powers, except such as shall be necessary to the exercise of the powers so enumerated and given.

When the corporate powers of any corporation are directed by its charter to be exercised by any particular body, or number of persons, a majority of such body, or persons, if it be not otherwise provided in the charter, shall be a sufficient number to form a board for the transaction of business ; and every decision of a majority of the persons duly assembled as a board, shall be valid as a corporate act.





**IN ASSEMBLY,**

**March 11, 1833.**

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**REPORT**

**Of the committee on claims, on the petition of John Kane.**

Mr. Russell, from the committee on claims, to which was referred the petition of John *Kane*, heir at law of Henry *Caine*, a soldier of the revolution, praying a compensation for the bounty lands to which his said father was entitled for revolutionary services,

**REPORTED:**

The petitioner states that he has been informed and believes, that Henry Caine was a soldier of the revolution, and enlisted in the year 1777, for and during the war, in Capt. Copp's company, in the first New-York regiment, commanded by Colonel Van Schaick, and continued in the service until he was taken a prisoner by the British and Indians, at Fort Stanwix, in the year 1779, and carried into Canada, where he was kept a prisoner until the close of the war, and that he then returned to the county of Montgomery, where he continued to reside until his death, in 1811; that no compensation has ever been received, either in land or otherwise, for said services, either by the soldier or the petitioner, to the petitioner's knowledge and belief—the petitioner's father was poor and illiterate, and made no effort to obtain said land, or compensation therefor, during his life time, and the petitioner made none until the year 1830, when his application failed for want of proof to sustain it.

On examination of the Legislative Documents of 1830, it will be found that this claim was had under consideration by the committee on claims in that year. From an examination of Document [Assem. No. 237.]



No. 318, it appears that the petitioner then claimed to be the son of Henry *Kane*, and that his said father enlisted in the year 1777, into Capt. McKean's company. Accompanying the petition in 1830 was an affidavit of Christian House, and another of David Hinmore, both of whom testified that they were acquainted with one Henry Kane in the years 1778 and 1779, who was then a soldier in Capt. McKean's company, and that he died about fifteen years after the close of the war, in the county of Montgomery. The committee then state, "that they have examined among other documents the register of the New-York regiments, now in the Secretary's office, but they cannot find the name of this soldier in the register of McKean's company; but they do find that a man by the name of Henry Cain enlisted in Capt. Copp's company in the year 1777, and was taken prisoner in 1779;" that from the circumstance that "the name of the petitioner's father is spelled different from that of the soldier in Capt. Copp's company, and from his having been in Capt. McKean's company, that committee came to the conclusion that the soldier returned was not the father of the petitioner.

But this difficulty upon the face of the present petition and the accompanying documents, seems to be overcome, for it is now stated that the name of the petitioner's father was *Cain*, and that he enlisted into Capt. Copp's company in 1777, and was taken prisoner 1779, corresponding therefore in all the important particulars with the soldier named in the said report of 1830; but how this soldier came to be described in 1830 in the manner in which he was, and now differently, has not been explained. The committee are of the opinion that the doubts which the committee entertained in 1830 are strengthened now, rather than overcome. And until satisfactory explanation shall be given, and the doubts removed which appear to have been reasonably entertained, the committee are of opinion that the claim cannot be entertained.

It is a fact worthy of notice, that the name of Henry Kane is not registered among the soldiers of the revolution; and hence the legal and reasonable conclusion that there was no such soldier. This idea, too, is strengthened by the fact that no claim is made for the bounty land or services of this man, who is now claimed to have been a soldier, until after his death, and that of most others who might have given information in relation to this demand. It appears, too, that the father of the petitioner was poor, and in des-

titute circumstances, and that he lived in the county of Montgomery continually, after the close of the war, until his death, in 1811. It is thought quite extraordinary, that one so circumstanced, having a *right* to the demand now set up, should have so long toiled in penury, while there remained for him in store, and so near at hand, a munificent reward for his eventful services. But yet all these conclusions are liable to be overcome by testimony; and when they are, the committee apprehend no one will be disposed to withhold the promised reward.

It does not appear from any testimony before the committee that Henry *Kane*, who, in 1777, was a soldier in Capt. McKean's company, was the same Henry *Cain*, who was *the* soldier at the same time in Capt. Copp's company. If the allegations now made, and also those which were advanced in 1830, are to be relied on, and it would be quite uncharitable to say they were not, then it follows that in 1777, there was a soldier in Capt. McKean's company by the name of Henry Kane, who, 1779, was taken a prisoner by the Indians, and carried into Canada, where he remained until the close of the war, and then returned to the county of Montgomery, where he continued to reside until his death, in 1811. And also, that there was a soldier in Capt. Copp's company the same year, by the name of Henry *Cain*, who was also taken a prisoner by the Indians in 1779, and carried to Canada, where he, too, remained until the close of the war, and then returned into Montgomery county, and died there in 1811.

Under all the embarrassments attending this claim, it is quite obvious then, that further explanation is due from the petitioner, before he can be entitled to the relief sought for. Entertaining the views herein before stated, the committee offer for the consideration of the House the following resolution:

*Resolved*, That the prayer of the petitioner, John Kane, ought not to be granted.



**IN ASSEMBLY,**

**March 11, 1833.**

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**REPORT**

**Of the committee on claims, on the petition of Uriah Shearer, praying compensation for the destruction of his fishery, occasioned by the erection of the Saratoga dam.**

Mr. Russell, from the committee on claims, to which was referred the petition of Uriah Shearer, of the county of Chautauque, praying compensation for the destruction of his fishery, in the town of Northumberland, in Saratoga county, occasioned by the erection of the Saratoga dam,

**REPORTED:**

The petitioner alleges, that previous to and at the time the Saratoga dam was erected across the Hudson river, to improve the navigation at the north, he owned a farm lying above said dam, upon each side of the said river, a portion of which was intervale, and was flowed by the erection of that dam; that upon this farm was a fishery which added much to the value of the farm; that it was mostly situated in the town of Northumberland, in the county of Saratoga; that in 1829, the canal appraisers came on to ascertain his damages, and he presented his claim for the injury occasioned by the inundation of his land, as well as for the loss of his fishery. But the appraisers solicited him to withdraw his claim for the destruction of his fishery, upon the ground that a question involving the same principle was then pending before the court for the correction of errors; and until that was decided, they were unwilling to appraise damages for injuries of this description; in consequence of which, the claim was withdrawn, and his damages appraised for the injury to the intervale lands above, and a receipt given in full, except for the damages to the fishery, which is ex-

pressly excepted in the receipt. These allegations have been fully sustained by the testimony introduced before the committee.

The question then which presents for consideration is, was this fishery the private property of the petitioner? It was situated upon the Hudson river, above where the dam was erected, and above the navigable waters, and the petitioner was the owner of the land upon each side of the stream. Under these circumstances, the committee are of opinion that he was the owner of the whole river to the extent of the length of his land upon it; subject, however, to the right of way which the public had over it; this right drew to it every appurtenant connected with the use of the farm, of which the exclusive right of fishing was one. It may well be asked, who had a right to appropriate this fishery to his or their own use, but the owner of the land? If this then was a right appurtenant to the farm, should it not be held as sacred as that of any other private property? If, in the course of the vast improvements which characterise the present age, artificial erections become necessary, by which private rights are infringed, it would seem to be an obvious dictate of justice to provide a means of remuneration; and the committee have not been able to discriminate between the case now presented, and such as arise from an appropriation or destruction of any other property.

Under these impressions, the committee have come to the conclusion that this claim ought to be sent to the canal appraisers, and have prepared a bill for that purpose, and now ask leave to introduce the same.

**IN ASSEMBLY,**

**March 12, 1833.**

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**COMMUNICATION**

**From the Governor, transmitting a copy of a preamble and resolutions passed by the Legislature of Ohio.**

**TO THE ASSEMBLY.**

**GENTLEMEN,**

I herewith transmit to you a preamble and resolutions passed by the Legislature of the State of Ohio, on the subject of the South Carolina Ordinance. Also a resolution of the same Legislature, expressing its opinion of the inexpediency of calling a convention to amend the Constitution of the United States. Also a resolution of the same body approbatory of the proclamation of the President of the United States, of the 10th of December last.

**W. L. MARCY.**

*March 11, 1833.*



## RESOLUTIONS.

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EXECUTIVE OFFICE, }  
*Columbus, Ohio, Feb. 26, 1833.* }

SIR,

I have the honor to transmit the accompanying preamble and resolutions, passed by the General Assembly of Ohio, on the 25th inst. to wit: a preamble and resolutions on the subject of the South Carolina Ordinance: a resolution in relation to the call of a Convention to amend the Constitution of the United States; and a resolution relating to the President's proclamation and message.

I have the honor to be,

Very respectfully,

Your obd't. serv't.

ROBERT LUCAS.

To his Excellency,  
the Governor of New-York.

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### Preamble and Resolutions on the subject of the South Carolina Ordinance.

Whereas His Excellency the Governor has transmitted to this General Assembly the Ordinance of the late Convention of the people of South Carolina, together with the proceedings of that body, whose object appears to be a resistance to the collection of duties, imposts, &c. upon foreign commodities imported into that State, by nullifying the acts of Congress, providing for the levying and collecting such duties. And this General Assembly cannot but view, with the deepest regret, the avowed determination of a majority of the citizens of the State of South Carolina, to resist the operation of the laws of the General Government, in the manner pointed out by the Ordinance adopted by their late Convention; and we have no doubt that such a course, if persisted in, must inevitably lead to consequences the most disastrous, and ruinous to the peace, prosperity and happiness of our common country.

Being connected, as we are, with our brethren of South Carolina by the strongest ties of consanguinity, and endeared by the mutual reciprocity of friendly intercourse and national attachment, and being sensible of the importance of our connection as States belonging to the same Federal Union; we cannot but deprecate every



effort or measure which is calculated, in the remotest degree, to operate to the severance of any of those ties, or render doubtful the permanent existence of our Confederacy. And entertaining as we do the most implicit confidence in the wisdom, justice and integrity of the General Government, we are well persuaded that no partial evil would be permitted to exist in any particular section of the Union, should it not be apparent that such evil was fully overbalanced by a general benefit afforded, by the same policy out of which that evil was found to spring up. Such evils, if such exist, we should endeavor to remedy in a spirit of moderation and good faith; to the end that the unparalleled prosperity of the whole Union, unequalled as it is, in the history of civilized man, may not be intercepted or paralyzed in any of its parts.

Believing that the prosperity and independence of this Republic mainly depend upon the general peace and harmony which ought to exist among the several States, and that *all* should ever keep in view the adopted maxim, "united we stand, divided we fall;" we feel it a duty, therefore, as American citizens, to cling with pertinacity to the Constitution of the United States, and to the preservation of the Union of the States. We cannot, therefore, view with indifference, much less can we lend our aid to any measure which is calculated to disturb the integrity of that Union.

*Resolved*, therefore, by the General Assembly of the State of Ohio, That we view with the deepest regret the unhappy movements, and apparent determination of the late Convention of the people of South Carolina, to nullify the laws of the General Government, made in conformity to the Constitution of the United States.

*Resolved*, That the Federal Union exists in a solemn compact entered into by the voluntary consent of the people of the United States, and of each and every State, and that therefore, no State can claim the right to secede from, or violate that compact, and however grievous may be the supposed or real burthens of a State, the only legitimate remedy is in the wise and faithful exercise of the elective franchise, and the solemn responsibility of the public agents.

*Resolved*, That the doctrine, that a State has the power to nullify a law of the General Government, is revolutionary in its character, and is in its nature calculated to overthrow the great temple of American liberty. Such a course cannot absolve that allegiance which the people of this Union owe to the supremacy of the laws.

*Resolved*, That in levying and collecting duties, imposts and excises, whilst the general good should be the primary object: a special regard ought to be had to the end, that the interest and prosperity of every section of the country should be equally consulted and its burthens proportionably distributed.

*Resolved*, That the first object of the American people, should be, to cherish the most ardent attachment to the Constitution and Laws of this Union; and as a first and paramount object of a free people, we should use every honorable means to preserve the honor and integrity of the Union.

*Resolved*, That the Governor be requested to transmit copies of [the] foregoing preamble and resolutions to the President of the United States, and to the Executives of the several States.

DAVID T. DISNEY,  
*Speaker of the House of Representatives.*  
SAMUEL R. MILLER,  
*Speaker of the Senate.*

FEBRUARY 25, 1833.

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### **Resolution in relation to a call of a Convention to amend the Constitution of the United States.**

*Resolved*, by the General Assembly of the State of Ohio, That in the opinion of this General Assembly it is inexpedient at the present time to apply to the Congress of the United States, for a call of a Convention of the people to amend the Constitution of the United States, or to call a Convention of the States to consider and define questions of disputed powers which may have arisen between any State of this Confederacy and the General Government.

*Resolved further*, That His Excellency, the Governor, be, and he is hereby requested to transmit copies of the foregoing resolution to each of the Executives of the several States of this Union for the consideration of the Legislatures thereof.

DAVID T. DISNEY,  
*Speaker of the House of Representatives.*  
SAMUEL R. MILLER,  
*Speaker of the Senate.*

FEBRUARY 25, 1833.

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### **Resolution relating to the President's Proclamation and Message.**

*Resolved* by the General Assembly of the State of Ohio, That this Legislature do cordially approve of the exposition of the principles of the Constitution of the United States, touching the pernicious doctrines of nullification and secession set forth in the proclamation of the President of the United States, of the tenth of December last, and in his late message to Congress, and that this Legislature do also feel the strongest assurance that the principles contained in that exposition will be firmly sustained by the people of Ohio.

*Resolved*, That the Governor be requested to forward a copy of the foregoing resolution to the President of the United States, to

the Executive of each of the United States, and to each of our Senators and Representatives in Congress.

DAVID T. DISNEY,  
*Speaker of the House of Representatives.*

SAMUEL R. MILLER,  
*Speaker of the Senate.*

FEBRUARY 25, 1833.

SECRETARY OF STATE'S OFFICE, }  
*Columbus, Ohio, Feb. 25, 1833.*

I HEREBY CERTIFY, That the foregoing RESOLUTIONS are true copies of the original rolls now on file in this Office.

MOSES H. KIRBY, *Secretary of State.*

**DOCUMENTS**  
**OF THE**  
**ASSEMBLY**  
**OF THE**  
**STATE OF NEW-YORK,**  
**FIFTY-SIXTH SESSION,**  
**1833.**

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**VOLUME IV.**  
**FROM No. 240 TO 334 INCLUSIVE.**

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**ALBANY:**  
**PRINTED BY E. CROSWELL, PRINTER TO THE STATE.**  
.....  
**1833.**



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**No. 246.**

# **IN ASSEMBLY,**

**March 15, 1833.**

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## **REPORT**

### **Of the committee on the judiciary on the petition of the supervisors of the county of Montgomery.**

Mr. Livingston, from the committee on the judiciary, to which was referred the petition of the board of supervisors of the county of Montgomery,

#### **REPORTED:**

That the first prayer of the petitioners is for relief against the burden which the allowance of accounts of justices of the peace and constables for services rendered in criminal cases, have imposed upon that county for several years past. The petitioners allege, that three-fourths of the amount of such accounts, (as audited and paid,) is for services rendered in cases of alleged assaults and batteries, breaches of the peace and trifling misdemeanors, under the degree of petit larceny. And they add "that a great portion of such complaints have in all probability been brought to gratify private malice and vindictive feelings, and not from pure, honorable and disinterested motives for the public good." It would seem from this statement, that the petitioners believe that the Legislature can by an exercise of its powers, induce individuals to prefer complaints in cases of misdemeanors (*only*) from disinterested and honorable motives. But your committee have been unable to invent any kind of legislative enactment by which they can reach the secret motives and springs of action by which the hearts and minds of our citizens may be governed when they proceed to take advantage of laws of acknowledged public utility. The petitioners further state, that very few, comparatively speaking, of the complaints which are instituted before justices of the peace are prosecuted to a fair termination; and they say that such complaints

are either dropped or settled by the parties in a spirit as improper as that in which they were engendered, and that their county by such unjust acts, is left to bear great costs and expenses. The costs and expenses which a county would be burdened with if complainants were compelled to prosecute their complaints to judgment, would, in the opinion of your committee, be very onerously increased; but ample provision is now made by statute to prevent the settlement of complaints of the character alluded to, if the county is not first fully indemnified.

After a warrant is issued by a justice in a case of assault and battery, if the party proceeded against is arrested, he is either confined in jail, immediately tried, or bailed. If confined in jail, he must be retained until he is legally discharged; if he is bailed (and it is believed that that is the class of cases to which the petitioners specially refer,) the justice is bound to return the recognizance to the next court having cognizance of the offence; but the justice may supersede such recognizance and allow the parties to compromise upon payment of the costs. So (in such a case) after indictment found, the parties may compromise if the court assent to it, and the costs are paid. The burden complained of may have arisen either by no attention to, or by a lax execution of existing laws, which laws if properly enforced, are, in the opinion of the committee, adequate to remedy the mischiefs complained of as far as they probably can be reached by any legal provision on the subject. It is necessary in a State professing to be governed solely by its laws, that its courts of justice, both high and low, should always be kept open, and be always ready to administer redress to those who may have suffered from a breach of any general law of the government. The legal facilities by which a breach of the public peace may be furnished, does not prevent the occurrence of assaults and batteries; but they do prevent a frequent resort to violence and bloodshed. If this is so, then the law which gives the facilities spoken of is wise and wholesome. But the petitioners say that the law is abused, that unfounded accusations are preferred, and that this subjects their county to expenses which must be borne by those who do not violate the law. This may be and probably is so. The answer in addition to that which has already been suggested, is that the grievance of which complaint is made, is one of those which necessity compels us to bear, and it ought, in the opinion of the committee, to be considered as a part

of the price which must ever be paid by those who enjoy the blessings and protection of the social compact. The petitioners further represent, "that the office of overseer of the poor ought to be abolished, and the duties appertaining to said office be performed by any one of the justices of the peace in all counties where the distinction of town and county poor is extinguished." The reason assigned for the proposed alteration of the law is, that it would lessen town and county expenses.\* Upon examining the statutes relative to this matter, your committee have found that there are a variety of cases, (notwithstanding "the distinction between town and county poor may be extinguished,") in which our laws have contemplated that the overseer of the poor should remain as a check upon the otherwise merely discretionary conduct of a justice of the peace. Your committee believing from the reason stated, that the additional expense which the continuance of the office of overseer of the poor will cause the several counties of this State will be more than overbalanced by its benefit, feel constrained to report against this part of the prayer of the petitioners. The committee for the reasons assigned, recommend that the several prayers of the petitioners be denied.

All which is respectfully submitted.





**No. 247.**

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**IN ASSEMBLY,**

**. March 15, 1833.**

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**REPORT**

**Of the select committee on the petition of sundry inhabitants of the county of Chautauque, relative to fishing in Cattaraugus creek.**

Mr. Gray, from the select committee to whom was referred the petition of sundry inhabitants of the county of Chautauque, praying for a law for the protection of the fishery of Cattaraugus creek,

**REPORTED: .**

That the said Cattaraugus creek at its junction with Lake Erie, and for some distance above, is the boundary line between the counties of Erie and Chautauque; that upon the eastern shore of the said Cattaraugus creek lies the reservation of one of the Seneca tribes of Indians, and that to them belongs the exclusive right of fishery to the thread of the river or creek, if it be considered an exclusive right, and that this circumstance, together with that of the creek being the line between the two counties, seem to present great if not insurmountable obstacles to an application of the provisions of either the statute or common law intended for such cases. The committee have not considered it necessary to go into detail upon this subject, but to present the principal facts as they exist, which have led them to the conclusion that the petitioners are justified at least in their application to this body for relief, instead of the court of common pleas of either or both the said counties, or the supreme court, because that it is evidently attended with much less expense and trouble, and should their prayer be granted, the relief will be more certain, as well as more extended.

The facts stated by the petitioners, as reasons why seines should not be drawn at the mouth of said creek, are briefly, that previously to the drawing of seines at that place, and for many years, the fish in great numbers passed up the creek for several miles, and were caught by the inhabitants in such quantities that they were sold much cheaper than they now are; that since the commencement of drawing seines, the fish have been gradually growing more scarce up the creek, as well as at the mouth, until they are not found at all, except at the mouth, and there in less quantities than formerly. These statements have, to the committee at least, been sufficiently verified by the testimony of several gentlemen of unquestionable veracity and integrity, living on the spot, and are not disproved by those remonstrating. The inference therefore seems to be, that drawing seines at the mouth of the creek, continually at that season of the year when the fish run up the creek, frightens them, and turns their course up or down the lake, and that thus the quantity taken is less, and the quality not as good. These facts, in the opinion of the committee, justify and require the interposition of a special law prohibiting the drawing of seines agreeably to the prayer of the petitioners. They have therefore prepared, and ask leave to introduce a bill.

**IN ASSEMBLY,**

**March 15, 1833.**

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**REPORT**

**Of the select committee on the petition of the Mayor, Aldermen and common council of the city of New-York.**

Mr. Ostrander, from the select committee to whom was referred the petition of the mayor, aldermen and common council of the city of New-York, for the passage of a law releasing to the corporation of the city of New-York, a certain lot of ground in the sixth ward of said city,

**REPORTED:**

That they have had the subject referred to them under consideration. The petitioners represent, that they have been applied to by the Mechanics' Institute, and the College of Pharmacy, of the city of New-York, for the grant of a lot of ground lying in the sixth ward of said city, for the purpose of erecting a suitable building thereon, for the use of the respective institutions; but inasmuch as said lot is part of a lot of land heretofore granted by the corporation of said city to the people of this State, so long as the same should be used for military purposes, are unable to comply with the application, without first obtaining a release from the State of said lot of ground, they therefore ask for the passage of a law releasing to the corporation of said city, said lot of ground, for the purpose of enabling them to grant said lot of ground to the respective institutions.

Your committee are of opinion, that as there are no buildings erected on the lot of ground proposed to be granted to the above institutions, and not made use of for any military purposes whatsoever, that the prayer of the petitioners ought to be granted, and ask leave to introduce a bill prepared for that purpose.



**To the Honorable the Senate and Assembly of the  
State of New-York:**

The further memorial of John J. Vanderkemp, general agent of the Holland Land Company, and also of Wilhem and Jan Willink, of Amsterdam, and of Joseph Fellows, general agent of the Pulteney estate,

**RESPECTFULLY SHEWETH:**

That the bill now before the Assembly, entitled "An act to subject certain debts owing to non-residents to taxation, and to facilitate the discovery of personal property liable to taxation," is both in its principle and details so prejudicial to the interests confided to the care of your memorialists, that they deem it their duty to offer to the Legislature a respectful remonstrance against its enactment.

The principle of the bill consists in the declaration that debts owing by inhabitants of this State to persons not resident therein, shall be deemed personal property within the town and county where the debtor resides, if they have been contracted for the purchase of real estate, or are secured by a mortgage on real estate; and as such shall be liable to taxation, in the same manner, and to the same extent, as the personal property of the citizens of this State. If in this proposed enactment, the general law prevailing through the States of this Union, or in the commercial States of Europe, or in the State of New-York itself, had been pursued, the foreign creditors whose interest it will affect, must have submitted to it as part of a system under which they and all other creditors hold and enjoy what is their own. But it is supposed to be free from all doubt, that this enactment does not follow the general law; that it is in opposition to principles perfectly established and settled, both here and elsewhere, and that the effect of the proposed law will depend not upon the hitherto known and received characteristics of debts, but upon one which the Legislature has created by its own declaration. Debts, however arising, or in whatever way secured, are not personal property within the town and county where the debtor resides. In every part of the world, where the

principles of law constitute a science, the contrary proposition is adopted and followed out into all its proper consequences. Personal things in general, and debts in particular, have no locality. Of the latter, it may be said, that they are invisible, intangible, altogether without local existence, and indeed without existence of any kind, except in contemplation of law. They are a mere legal right in one man, attended by a legal obligation in another, to demand and to pay what, until demand and payment, has no existence either in one place or another. The only thing which has existence, is the *right*, attended by the corresponding obligation; and this right is in the creditor, whose person therefore it follows, and in whose domicil, by the universal consent of civilized nations, it has all the locality that is ever attributed to it. The debtor has nothing, and owns nothing in the debt. The creditor has it, and owns it exclusively. This species of personal property, is therefore, in the creditor only, and in his domicil only; and it is a deviation from the universally settled rule to say, that it follows the debtor, or that it is in legal contemplation in the place where the debtor resides.

The proposition here stated is not the less true, because the debt flows from a local source, such as land, or other real estate, or because it has the security of this kind of estate for its payment. The distinction between the debt and the security is obvious, and exists in the nature of things. The character of the debt is not changed by the security. It remains a debt owing to a foreign creditor, as much when land within the home jurisdiction may be resorted to for payment, as when the only recourse is to a person within that jurisdiction. The land and the person of the debtor may equally be resorted to for the purpose of giving effect to an asserted jurisdiction over the debt; but in each case it is but a substitute for that natural jurisdiction over the person of the creditor, which his residence gives to a foreign country only.

These principles are sanctioned every where, and in no State more distinctly than in New-York. In the cases of intestacy, of testamentary disposition, of transfer by the act of the party, whether actually voluntary, or only constructively so, by being the act of the law which governs his person—in all cases in which the acquisition, transmission and transfer of moveables is involved, the law of the domicil of the creditor or proprietor, furnishes the rule; and if this is true of moveables generally, it is more strikingly true of debts, in regard to which a different rule would produce a conflict

of laws, altogether inconsistent with the maintenance of harmony and mutual respect between independent States. It is undoubtedly true, that it is a rule for the decision of courts; and it may be said that this is its only proper character, and that it has no pretensions to be adopted as a rule of jurisdiction for the Legislature.— But to this your memorialists think it may be replied, that it is a rule for the decision of courts, only because it has been respected by the Legislature, who have either disclaimed altogether, or exercised only in the most sparing manner, a jurisdiction over the subject. It is a reciprocal rule of legislation, as well as of law, among the nations of Europe, and the States of America, to leave the subject to the domicil of the creditor and proprietor; and perhaps the only instance in which there has been any thing like a common practice in opposition to the principle, has been in the case of attachments, to coerce a foreign debtor to the payment of his debts, a case by no means universally approved, and which, at the same time, will be found, upon reflection, to present a peculiarity arising out of the conflict of a domestic and a foreign creditor. For fiscal purposes, your memorialists are not aware, that in any instance, the law of any State of Europe, or of this country, treats debts due to foreigners, whether secured by real estate or otherwise, as forming a part of the available resources of the home State, for the purposes of taxation. A law to this effect, it is respectfully submitted, will stand by itself, and will not only be in conflict with the rule before noticed, but with the rights of hospitality, and the security of commercial intercourse, upon which the peace and happiness of the world depend.

It has been stated by an approved writer, as a leading principle, that the natural use and intention of taxes is to divide the public burthens of a State among the different members who compose it, in proportion, as nearly as may be, to their respective abilities. A division upon this principle, and in this proportion, excludes from among the subjects of taxation debts due by residents to non-residents, and substitutes in their place debts due by non-residents to residents in the country which imposes the tax. The latter constitute part of the ability of a citizen to pay the tax imposed by his country, the former do not, but they constitute part of the ability of a foreign citizen to pay the just demands of his own country. In this way equality among states is attained. Each State reckons among the resources of its citizens, and among its own resources for revenue, the mass of their personal property consisting



of debts due to them, and every description of moveables, together with the entire mass of real estate exclusively within its jurisdiction; each citizen at the same time pays his own government what it deems right to require towards the public burthens on account of the same mass of personal property, and to the government which permits him to own land within its limits, what it deems fit to impose as a tax upon such land. No man's estate is, by the operation of this rule, taxed twice, nor does any man's estate escape liability to taxation. The mutual good will of States towards each other is preserved and promoted by a reciprocal respect for the rights of their respective citizens, and all inducement to harrassing and retaliating laws is effectually removed. In this rule commercial States find their advantage, because it promotes the unrestrained circulation of every description of pecuniary capital; and perhaps nothing has contributed more essentially to build up the habit of private fidelity to engagements than the public respect paid by nations to the principle now adverted to.

The numerous laws throughout the States of this Union which impose taxes upon corporate, banking and insurance companies, in which foreigners have an interest, are in no respect an exception to the rule. They are strictly defensible as laws regulating a political body or person which derives its existence, and all its capacities from a law of the State within which it acts. A corporation is, politically, a resident of the State which incorporates it. It has no existence any where else. Its property, moveable or immoveable, is, by construction of law or in fact, within that State. There is its domicil. By that law must its transactions, its faculties, its disabilities and its duties, be regulated; and if a foreigner claims any interest in it, he must claim it subject to them all. To tax the dividends or the capital of a bank, is therefore, strictly within the principle that has been deemed, by your memorialists, the true principle; and the foreigner who receives his due proportion of what the law which governs the corporation leaves to him, receives the full extent of what is due to him by that law which created the corporation, and is the law of its domicil. The tax does not operate upon a debt due to him, but upon the property of a corporation, in which his membership is recognized only by virtue of the law which creates, controls and protects the body politic as a member of its own political-community.

Your memorialists have deemed it expedient on behalf of those they represent, to make these remarks to the Legislature, because the law proposed is new in principle, and will be deemed a leading measure, both at home and abroad. It will not escape observation that the loose connexion between the debts which are taxed, and the real estate which collaterally secures them, is not sufficient to discriminate such debts from any others which are owing to foreigners. The real estate referred to by the bill, is doubtless within the State of New-York, and is subject to its jurisdiction, and liable to all its fiscal impositions. But the bill does not purport to tax the lands. They are already taxed under existing laws. The reference to lands would seem to be made, merely to show a connection, between debts which in general contemplation, are beyond the jurisdiction of the Legislature, and lands which are confessedly within their jurisdiction. And yet the connexion is substantially nothing more, than if the collateral security were a citizen of New-York, or his personal property situated therein, in both which cases the locality and the jurisdiction would be equally incontestible. It will be difficult, if this act shall pass into a law, to discriminate in principle, the cases embraced by it, from the case of promissory notes with a New-York endorser, or loans secured to non-residents by pledges of chattels, whether merchandize, shares in banks, insurance companies and other New-York corporations, or loans of the State itself. The act will announce to the world, that all debts owing to non-residents, are exposed to taxation within the State of New-York, by being deemed a fit subject for taxation in cases not to be satisfactorily distinguished from the rest; and if it is a benefit to the State and its citizens, to borrow money of non-residents upon mortgage or pledge, or to have a credit from them, for either money lent, or goods or lands sold, it may be supposed, even if equalizing laws are not passed by other States, that the fact will not be without its influence upon the state of credit in this community.

Your memorialists most respectfully pray, that under the influence of these considerations and others of the like nature, the Legislature of New-York, will not enact the proposed bill into a law. If however, such general suggestions, shall be deemed to have less weight than your memorialists think them entitled to, they beg leave to offer for consideration, some remarks which more particularly spring from the terms of the proposed law, and from the position and circumstances of the parties they represent.

The evils of the proposed law in its operation upon these parties, are striking, and will be extremely oppressive.

It appears to be an essential part of the system, that there shall be a searching inquisition into all outstanding debts due to non-residents, which arise from the purchase of land or are secured by mortgage. It is no slight objection to a law, that it has a tendency to place those in a state of opposition, who, by their relation, ought to be united; and the objection is still stronger, when the tendency is to subject an agent to a public duty, his fidelity to which increases a charge upon his immediate principal. The objection is not diminished by the restriction of the enactment to agents who are inhabitants of this State. The two great interests represented by your memorialists, require the presence of agents within the State; but there are many interests within the description of the bill, which require no such agencies, and some which require no agency at all; and it aggravates the evil, that similar interests will not be similarly affected by the law. It is not unworthy of consideration, that an example set by this great State, of probing the consciences of agents, as well as others for the discovery of non-resident interests, is, from the extension of the capital and pecuniary means of the citizens of New-York, as likely to be followed by other States in regard to them, as to any others in the United States.

The bill in further prejudice of the parties represented by your memorialists, comprehends within the same provision, interests extremely dissimilar. "Debts owing for the purchase of real estate," and "debts secured by a mortgage on real estate," are, in the understanding and judgment of all who are practically acquainted with the subject, unlike in the very point in which they ought alone to be regarded by a tax law—their productiveness of money to the creditor. The mortgagee is either a lender who has the choice of security, or a seller who has received so large a part of the purchase money as to be willing to part with the title, and to take a security upon the land for the balance that remains due. The creditor upon a contract of sale, is one who has frequently received no part of the purchase money, and who is obliged even to pay the taxes, assessed upon the land, to prevent its sale, while the contract is outstanding. Debts owing for purchases of wild land, as contradistinguished from debts secured by mortgage, are, notoriously, and in the universal judgment of men, of far less value than

their nominal amount. The expenditures, the deductions, the expedients that are to be made and practised, before the contract is carried into effect, and with a view so assist the debtor in performing it, are nearly infinite. The purchasers, and first clearers of wild land, are men who rarely if ever, have any thing directly to do with money. Such as are unthrifty, leave the land to fall back to the seller, charged with taxes, injured by bad clearing, of less value in the end than it was in the beginning. This has happened to your memorialists, or rather to their principals, in many cases, and will continue to happen; and in all these, if the bill shall become a law, the creditors after paying the heavy taxes assessed upon the land, must also pay a tax upon the contract for the price of the land, and finally lose the price and the contract also, by taking back against their will, the injured and impoverished land, and letting the purchaser go free.

Even where the settler is reasonably thrifty, abatements of interest, extensions or renewals of credit, contributions in money to schools, bridges, churches, roads, and other objects of interest to the country, are constantly required by the debtor, and granted by the creditor, in diminution of the nominal debt. A single fact is sufficient to show the difference between the nominal and real value of these contracts, that more than fifteen thousand five hundred of them were renewed by the Holland Land Company before the year 1832, at a reduction in nominal value, of more than 730,000 dollars, and upon the renewed contracts reductions to a great amount still remain to be made, from the continued operation of the same causes. In fine, it cannot be denied, that these debts are, in a great degree, unlike any other debts, that are known to our country. The purchasers of land under these contracts are often destitute of all property, except the scanty outfit of domestic utensils and apparel, and the tools and narrow stock which are necessary to begin a clearing. When they have sealed and delivered their contract, what is the security for its performance? The land, and nothing but the land. This is the only item of property that is represented by the contract. The debtor has nothing but the land, and the creditor has the same. The debtor may make something out of the land wherewith to pay his debt, or part of it, and when he does, then for the first time, there is something besides the land in the hands of the parties. But in the mean time, the land is the whole property on either side, or rather it is held in stake by the seller, with an engagement that it shall change hands,

upon receiving an agreed price per acre. Until then, the party who is to receive the money stands as he was before the contract, the certain proprietor of the land, with nothing more than a contingent right to money when the purchaser shall make it, and be willing to pay it; and the public should, in justice and in equity, stand in the same position, relative to the taxing power. If taxed at all, the contracts should be no further taxed than, as from time to time, they become productive of something in addition to the land.

What has thus been truly remarked of contracts for the sale of wild land to settlers, is not true of any other sale of property whatever. No man sells merchandize to another, who has nothing but the merchandize so sold to pay his note or debt with. Such a state of things would effectually prevent the sale altogether. The purchaser must have something besides the article sold. He must have credit, which implies the possession of something else. His note, therefore, is the representative of other property, besides that for the price of which it was given; and hence, if debts are taxed, it is reasonable to tax this as a debt due for the purchase of merchandize. But in the case of these land sales it is not so. The land is all that there is to show for the contract, and the contract is another name for the land. To tax both the land and the contract is therefore literally to tax the same subject twice.

The effect of the proposed bill upon other interests besides those of the creditors or sellers of the land, cannot be unworthy of notice. The country which is growing up under contracts with the parties whom your memorialists represent, has felt the advantage of sales of land upon long credits, and also of renewed and extended credits. It must be the consequence of a tax upon the debt, either to prevent or diminish these credits, or to throw the expense of the tax upon those whom the law does not profess to charge. In cases where the debt is adequately secured, it may be supposed that an extension of credit, and even a forbearance to press the payment, if it take place at all, will be so arranged as to prevent the creditor from losing by his indulgence. In cases of a different description, it may also be supposed that the creditor will bring the contract to an immediate conclusion, if its continuance only serves to charge him with a tax upon a bad debt. This remark is not intended to communicate what will certainly occur in any given case, but only to indicate the probable tendency of the act in

question in those cases in which the parties will be at liberty to relieve themselves from the pressure of the enactment. The probability of such consequences, and their injurious effect upon interests which the Legislature has always been disposed to promote, seems to constitute a fair argument against the policy of the law. In the case of a debt well secured, when the debtor wishes further credit, the tendency of the act will be to throw a double tax upon the purchaser of the land. In those cases in which the debt is not well secured, and the credit has expired, its tendency is to lead to immediate pressure on the debtor, and upon his interest in the land; and where the debt is not well secured and the credit is not expired, its tendency will be to throw a double tax upon the seller. There are probably few cases, and the number will be constantly diminishing, in which the tax will fall upon the seller's interest in the debt, without at the same time falling upon his interest in the land, and thus compelling him to pay a double tax on the same interest.

Your memorialists are satisfied, from their long and intimate acquaintance with the lands and other interests under their care, that the proprietors have at no time done any thing to forfeit the just regard of the Legislature or of the country. They have purchased these lands under the guaranty of the public faith of the State. They have expended an immense capital not only in the purchase, but in the improvement of the country. The returns from it hitherto have been comparatively inconsiderable. The debts owing to them have been greatly augmented by a spirit of liberal consideration for the debtor, not always indulged with a view to their own ultimate payment. Their desire has been, not to sell their lands for the best price, but to make the settlements prosperous, and the people contented. With this view, they have habitually assisted the purchasers in their payments, by receiving their produce and stock, at prices much beyond the current rate of the market, and to the utmost extent of their power, have co-operated in every measure that promised a benefit to the community around them. For the truth of these remarks they can appeal with confidence to all who have witnessed their transactions. This conduct may not be, and it is not stated for the purpose of being, considered as a title to legislative favor; but they consider and state it as a ground for an impartial estimate of the remarks they have submitted to the Legislature in regard to the bearing of the pro-

posed law upon their constituents, and upon the country in which they are interested. Upon both they solemnly believe that it will pass with a severity which ought not to belong to the legislation of this great State; and they therefore pray the Senate and Assembly to take their case into deliberate consideration, trusting that the justice and wisdom of the Legislature will sanction the remonstrance which they respectfully make against the passing of the law.

All which is respectfully submitted.

JOHN J. VANDERKEMP,  
*General Agent of the Holland Land Company,*  
and W. & J. WILLINK.

JOSEPH FELLOWS,  
*General Agent of the Pulteney Estate.*

*Albany, 18th March, 1833.*



**IN ASSEMBLY,**

**March 16, 1833.**

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**REPORT**

**Of the select committee, on the petition of the inhabitants of the town of Oswegatchie, in the county of St. Lawrence.**

Mr. Allen, from the select committee, to whom was referred the petition of the inhabitants of the town of Oswegatchie, in the county of St. Lawrence, for the erection of a public building in said town,

**REPORTED:**

The petitioners state that at the annual town-meeting in said town the assessors then chosen were instructed to make inquiry, obtain information, and report to the next annual town-meeting, the practicability and probable expense of erecting a public building, for a town-house, in the village of Ogdensburgh. The assessors reported the result of their labors, and introduced a resolution recommending the erection of a town-house, which was unanimously concurred in by the meeting. The resolution proposes the levying a tax on the real and personal estate in said town, sufficient to raise the sum of two thousand dollars; provided the inhabitants in the village of Ogdensburgh shall raise the like sum, by subscription or otherwise. The petitioners state that the said two thousand dollars required to be paid by the village has been secured to be paid. It appears to your committee that the resolution and proceedings in town-meeting are properly certified by the proper town officers; and there being no remonstrance or opposition before the committee, they are of opinion the prayer of the petitioners is reasonable and ought to be granted. They have, therefore, prepared a bill and ask leave to introduce the same.





**IN ASSEMBLY,**

**March 16, 1833.**

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**REPORT**

**Of the committee on claims, on the petition of James Wickam, praying compensation for the deficiency in a lot of land purchased by him from the State.**

Mr. Russell, from the committee on claims, to which was referred the petition of James Wickam, praying compensation for the deficiency in a lot of land purchased by him from the State,

**REPORTED:**

Lot No. 27, in the Crumhorn Mountain tract, in the county of Otsego, was purchased by the petitioner and one Benjamin Pierce, on the 9th May, 1821, and was reputed to contain 199 acres of land. On the first of October, in the same year, the petitioner transferred to Pierce one hundred and twenty-five acres of the lot.

It was afterwards discovered that several of the lots in this tract were inaccurately surveyed, and on the 16th April, 1822, an act was passed for the relief of the purchasers. This act directed accurate surveys to be made and filed in the office of the Secretary of State, and the accounts of purchasers liquidated by the Comptroller, according to the contents of their respective lots, as ascertained on the re-survey: and that when the lands should be paid for, they should be patented according to the description in the new survey. Pursuant to this act a re-survey was made, and 40 acres was added to said lot No. 27, making in that lot 239 acres, and the owners of the lot charged with the additional quantity.

After this, several assignments and conveyances of parts of the lot passed between the petitioner and Pierce, which were adopted by the Commissioners of the Land-Office, and a patent finally  
[Assem. No. 250.]

issued to Pierce, in pursuance of that arrangement, and the accounts of the respective parties, at the Comptroller's office, were regulated accordingly.

After this a controversy arose between the petitioner and Pierce, in relation to the relative value of the respective parts of the lot which each held, and on the 26th of June, 1824, a reference was made to two individuals to settle this dispute. Upon this investigation it was conceded, by the petitioner and Pierce, (if the award is to be relied on,) that the petitioner had 72 acres and upwards, and Pierce 166 acres and upwards in this lot, making up the whole quantity contained in the lot.

What inducement operated upon the parties, when making this partition, the committee have thought was unnecessary for them to investigate: the disparity in quantity is indeed great, but it may not have been so in value; and even if it was, a pecuniary consideration may have passed between the parties, by which the apparent disparity was made equal: these were matters of a private nature, and are not properly inquirable into here.

For a more minute detail of the facts connected with this claim, the committee beg leave to refer to the report of the Commissioners of the Land-Office, which may be found in Document No. 236, in this House the present year. Whatever ground of complaint the petitioner may have against Mr. Pierce, the committee are of opinion he has none against the State: they have therefore come to the conclusion that the prayer of the petition ought not to be granted, and offer, for the consideration of the House, the following resolution:

*Resolved*, That the prayer of the petitioner, James Wickam, ought not to be granted.

**No. 251.**

**IN ASSEMBLY,**

**March 16, 1833.**

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**REPORT**

**Of the committee on the judiciary, on the petition of the town clerk of the town of Concord, in the county of Erie.**

Mr. Skinner, from the committee on the judiciary, to which was referred the petition of the town clerk of the town of Concord, in the county of Erie, in behalf of said town, for an act to change the manner of voting for town officers in said town,

**REPORTED:**

That your committee have had the subject under consideration, and see no reason why the prayer of the petitioner should be granted. The Revised Statutes prescribe the manner in which all town officers should be elected; and also the mode of voting for the same. Your committee know of no valid objection to the present mode; and are clearly of the opinion, that a general law, applicable to all the towns in the State, is far preferable to a multiplicity of laws, varied to suit the whims or caprices of the several towns: They, therefore, have unanimously come to the conclusion, that no alteration in the mode of choosing town officers in said town is necessary, and recommend that the petitioner have leave to withdraw his petition.



**IN ASSEMBLY,**

**March 16, 1833.**

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**REPORT**

**Of the Bank Commissioners, on a resolution of the Assembly, relative to the dividends and profits of the several banks liable to the provisions of the Safety fund law.**

*To the Honorable the Assembly.*

The Bank Commissioners, in answer to a resolution of the House, requiring them to “report the amount of the several regular and extra dividends made by the banks which have been incorporated, or whose charters have been renewed since the passage of the law establishing a Safety fund, commencing at a period when each bank was incorporated, or its charter renewed, and distinguishing the amount of each dividend, and the time when the same was made, together with the amount of reserved profits remaining on hand at the time of making each of such dividends,”

**RESPECTFULLY REPORT:**

That the terms of the resolution cannot be complied with from any data in our possession. We are able, however, from the reports made to us, to give the amount of dividends of each year, and of the profits on hand on each 1st of January, which will probably furnish all the useful information that would be obtained, if a literal compliance of the resolution could be had.

That information will be found in the tabular statement hereto annexed. The amount of profits reported consists of the balances of those fictitious accounts which represent profits, such as “profit and loss,” “surplus,” “discount,” &c., after deducting the debits of corresponding accounts, such as “expenses,” &c.; and it is proper to remark that these accounts, as they stand, on the books,  
[Assem. No. 252.]

and as they are stated in the annexed table, in but few instances represent the actual condition of the bank with reference to its profits. There are, on the one hand, bad debts included in the amount of discounted notes, bad debts in the shape of over drafts, accounts of different descriptions resting upon insufficient or doubtful security, and apparent differences in the balance sheets, which go to diminish the apparent amount of profits; and on the other hand, there are debts which have been charged to profit and loss, from which something may be realized, and stocks purchased and paid for out of surplus profits which go to increase the apparent amount of profits.

In some instances, as we should estimate the real amount of profits on hand, it would differ from the apparent amount more than one-half, and in but very few instances would it exceed the apparent amount as reported,

C. STEBBINS,  
GEO. R. DAVIS,  
LEWIS EATON,  
*Bank Commissioners.*

*Albany, March 16, 1833.*

## Statement of dividends and profits from 1830 to 1833.

BANKS.	Dividends, 1830.	Profits, 1 Jan. 1831.	Dividends, 1831.	Profits, 1 Jan. 1832.	Dividends, 1832.	Profits, 1 Jan. 1833.
Bank of Newburgh, .....	\$24,900	\$15,577	\$9,800	\$25,143	\$16,000	\$35,446
Catskill Bank, .....	18,750	6,384	13,500	17,853	21,750	15,949
Mechanics' and Farmers' Bank, .....	173,680	87,082	35,360	84,424	25,360	119,686
New-York State Bank, .....	29,568	74,086	29,807	49,674	29,568	70,135
Bank of Albany, .....	18,000	5,434	16,800	9,140	16,800	12,304
Bank of Troy, .....	31,680	41,766	39,600	52,538	39,600	67,077
.....	22,250	14,381	22,240	23,614	22,240	28,789
.....	4,950	6,334	9,900	8,927	9,900	11,437
.....	.....	5,883	12,000	11,691	12,000	15,949
Bank of Utica, .....	45,000	6,078	7,200	13,002	10,800	9,911
Jefferson County Bank, .....	6,000	60,278	54,000	71,405	54,000	72,873
Bank of Auburn, .....	14,000	11,213	8,000	16,635	8,000	20,599
Bank of Geneva, .....	40,000	56,968	14,080	72,968	14,080	73,760
Ontario Bank, ..	50,000	43,177	40,000	50,856	40,000	61,872
Bank of Ithaca, .....	8,000	110,282	50,000	112,713	50,000	113,835
Bank of Genesee, .....	5,000	9,047	30,000	12,117	20,000	19,760
Bank of Manassas, .....	15,000	3,367	10,000	9,170	10,000	13,973
.....	4,000	4,196	30,000	18,490	30,000	26,709
.....	.....	4,257	10,000	10,057	13,000	9,906
.....	.....	19,037	18,000	22,585	21,000	26,470

\* The dividends of this bank in 1830, were about \$30,000; the precise amount is not now to be ascertained without some delay.









**No. 256.**

**IN ASSEMBLY,**

**March 18, 1833.**

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**REPORT**

**Of the select committee on the petition of sundry inhabitants of the county of Allegany.**

Mr. Collins, from the select committee to which was referred the petition of sundry inhabitants of the county of Allegany, praying for an act to authorise the board of supervisors of said county, to raise money to build a bridge across the Genesee river, in the town of Hume,

**REPORTED:**

That they have had the same under consideration, and believe a bridge to be highly necessary at the place proposed in said petition, and that the expense of building said bridge would be burdensome on the immediate vicinity, without assistance from the county. The committee have come to the conclusion, that the prayer of the petitioners is reasonable and ought to be granted; they have prepared a bill, and ask leave to introduce the same.



**IN ASSEMBLY,**

**March 18, 1833.**

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**REPORT**

**Of the select committee on the petition of Samuel Nichols, of the town of Flushing, relative to the erection of a dock opposite to his lands.**

Mr. Jackson, from the select committee to which was referred the petition of Samuel Nichols, of the town of Flushing, in the county of Queens, praying for an act to authorize him to erect a dock opposite to his lands, at a place called Lawrence Neck, in the aforesaid town of Flushing;

**REPORTED:**

That they have had the same under consideration, and, from the facts set forth by the petitioner in relation to this subject, they are of the opinion that the inhabitants of that section of country, as well as the petitioner, have long labored under the inconvenience of not having a good and permanent dock. The petitioner represents that he is the owner, and occupies a large tract of land upon the aforesaid neck, in said town of Flushing; a considerable extent of which said land, borders upon Long Island Sound, or East River, where the sound, or river, is about one mile in width; that there is a space of said shore about five hundred and forty feet in length, nearly in front of the dwelling-house of the petitioner, which is covered, between high and low water mark, with numerous dangerous rocks, rendering the approach to the shore with boats, often hazardous, and sometimes very dangerous; and that the petitioner is in the habit of transporting the produce of his farm to the New-York market by water, in his own boats, and returning with manure, to replenish and improve his farm. He states, that in transacting the necessary business of his farm, it would be to him of the utmost importance, to be enabled, by le-

gislative authority, to erect a dock, or landing place, adjacent to his land, adjoining the said sound, or East river; to commence at high water mark, and from thence to run northerly into the said sound, or East river, to a certain rock called Lone Rock, about two hundred and fifty feet from high water mark; from thence a southwesterly course, five hundred and forty feet, nearly a parallel with the line of low water mark; from thence a southeasterly course, one hundred and thirty-five feet, to high water mark.

It does not appear to the committee, that in the constructing of the proposed dock, it will in any manner obstruct the usual commerce and navigation of the sound, nor interfere with the rights, privileges, or interests of a single individual, in any shape whatever; but on the contrary, vessels would be enabled to load and discharge their cargoes with more facility and less expense.

Under these circumstances, the committee are unanimous in the opinion, that the prayer of the petitioner is reasonable, and ought to be granted. The committee have therefore prepared a bill for that purpose, and ask leave to introduce the same.

All of which is respectfully submitted, &c.

**No. 259.**

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**IN ASSEMBLY,**

**March 19, 1833.**

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**MESSAGE**

**From the Governor, transmitting the Reports and Resolutions of the Legislatures of the States of Massachusetts and Mississippi, in relation to the proceedings of South Carolina.**

**TO THE ASSEMBLY.**

**GENTLEMEN:**

I herewith transmit to you the report and resolutions of the two branches of the Legislature of Massachusetts, in relation to the proceedings of South Carolina: Also, a report and resolutions, on the same subject, adopted by the Legislature of the State of Mississippi.

**W. L. MARCY.**

**March 19, 1833.**

**[Assem. No. 259.]**

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## DOCUMENTS.

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EXECUTIVE DEPARTMENT OF MASSACHUSETTS, }  
Boston, March 11, 1838. }

Pursuant to a request of the Legislature, I have the honor to transmit herewith a copy of a report and resolutions adopted concurrently by the two branches, expressing the sentiments of the representatives of the people of Massachusetts, in relation to the proceedings of the Convention of South Carolina.

With respectful consideration,

Your ob't servant,

LEVI LINCOLN.

To His EXCELLENCY,

*the Governor of the State of New-York.*

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## REPORT

*Of the joint select committee of the Legislature of Massachusetts, upon so much of the Governor's address at the opening of the present session, as relates to the proceedings of the Convention of South Carolina.*

IN SENATE, February 15, 1838.

The joint select committee, appointed to consider so much of the Governor's address as relates to the proceedings of the late Convention of the people of South Carolina, and the purposes and policy thereof: and to whom have been referred resolutions of the States of Pennsylvania, New-Hampshire, Illinois, North Carolina, and Delaware, upon that subject, have attended to the duty assigned them, and beg leave to submit the following

### REPORT:

In the partial report which they have already submitted, the committee have stated in general terms the character of the proceedings of the late Convention of the people of South Carolina; and the subject is now so familiar to the public, that it does not seem necessary to enter very fully into a recapitulation of facts. It is generally known that this Convention, which appears to have been assembled agreeably to the forms prescribed by the Constitution of the State, met at Columbia on the 22d of last November: that almost immediately after, and with very little deliberation, it

proceeded to pass an act, denominated an Ordinance, declaring null and void all the laws of the United States which impose duties upon the importation of foreign goods, particularly those of the 19th of May, 1828, and the 14th of June, 1832; prohibiting the execution of them within the State of South Carolina, and making it the duty of the Legislature to pass such laws as should be necessary to give full effect to the Ordinance, and to prevent the enforcement and arrest the execution of the laws aforesaid: that the Legislature, at a session subsequent to the meeting of this Convention, has in fact passed certain laws for these purposes, which were to go into operation on the first day of this month, and which, if executed, must bring the constituted authorities of the United States and of South Carolina, into open collision.

The papers in the hands of the committee include a printed copy of this Ordinance of the Convention, transmitted by its order to his Excellency the Governor, and also printed copies of a long report of the committee which drafted the Ordinance, and of addresses in the name of the Convention to the people of the United States and of South Carolina. These documents undertake to justify the proceedings of the Convention, on the ground that the duties on the importation of foreign goods were laid, in part at least, for the purpose of protecting domestic industry: that the General Government is not invested by the Constitution with the power of laying duties for this purpose, and that, whenever the General Government assumes powers which, in the opinion of any one of the States, are not given to it by the Constitution, the State which entertains this opinion may, without violating the Constitution, declare the act by which the power so assumed has been exercised, null and void, and prevent the execution of it within its limits. It also appears to have been supposed by the Convention, that, on the adoption of such measures by any one State, it would become the duty of the General Government to suspend the execution of the law complained of, at least within the limits of the complaining State, and to apply to the people in the form prescribed for amending the Constitution, for a grant of the power supposed to have been unconstitutionally assumed: that, if the power should on this application be refused by the people, it would be the duty of the General Government definitively to repeal the law by which it had been exercised, and that if, on the contrary, it should be granted, it would then become the duty of the complaining State to acquiesce. There seems, however, to be some uncertainty in the views of this part of the subject entertained by that portion of the citizens of South Carolina upon whom the responsibility for these measures rests: as the Legislature of the State, instead of leaving it to the General Government to propose to the people in the form prescribed for amending the Constitution, a grant of the power of laying duties upon the importation of foreign goods, have themselves, at their late session, passed resolutions, proposing to the other States to hold a Convention for the purpose of settling this and other questions which they consider as doubtful.

It is affirmed, in these addresses and reports, that the laws of the United States, imposing duties upon the importation of foreign

goods, thus declared to be null and void, are exceedingly burdensome and oppressive to the people of South Carolina. This proposition is not made out by the statement of any facts which tend to prove the existence of actual distress; and it is remarkable that the Governor of South Carolina, in his address to the Legislature, at the opening of their late session, congratulated them upon the extraordinary prosperity of the State. The Convention attempt to maintain their assertion of the ruinous tendency of the impost laws, by laying down certain abstract principles in political economy, which are very paradoxical, and as the committee believe, entirely erroneous. It is unnecessary, however, for the purpose of the present report, to enter upon a particular examination of these doctrines, because the justification of the proceedings of South Carolina does not, after all, depend in any degree upon the question of their truth or falsehood. Whatever may be the real operation of the impost laws upon the peculiar interests of that State—were it as unfavorable as the committee believe it to be beneficial and salutary, it is admitted that the State would have no right to seek redress in the form in which it is now sought, unless the enactment of these laws involve an assumption by the General Government of powers not granted by the Constitution. No abuse of constitutional power, however glaring, and intolerable, would, on the theory of the Convention, justify a resort to nullification.

The question of the real operation of the impost laws upon the prosperity of South Carolina, may therefore be laid entirely out of the case. Nor, although the justification of the proceedings of the Convention is to be sought, on the ground taken by that body, in the supposed unconstitutional character of these laws, do the committee deem it important for the present purpose to inquire particularly how far this obligation is well founded. Entertaining, themselves, no doubt whatever, that the power of laying duties on imported foreign goods, with a view to any appropriation of them, which, in the discretion of the government, may be required by the common defence and general welfare, is given by the Constitution, the committee are also persuaded, that were this a doubtful point, or were it even conceded that the General Government has no such power, the proceedings of South Carolina would not, on that account, be any the more defensible. The objection to them is, that they propose an unconstitutional and illegal method of obtaining relief from a supposed political grievance. It is therefore unnecessary to inquire, whether this grievance be real or imaginary, since the objection, if substantiated, is equally valid in either contingency.

Omitting, therefore, any consideration of the expediency or constitutionality of the laws imposing duties on imported foreign goods, the committee will confine themselves to the single inquiry, how far the proceedings of the Convention of South Carolina are consistent with the Constitution and laws of the country? Even in this restricted shape, the subject is far too extensive to be examined, in a full and satisfactory manner, within the limits assigned by usage to a document of this kind. The committee can only undertake to

present a few of the considerations that bear most strongly and obviously upon the leading points of the argument.

The suggestion that would probably first occur to an impartial mind, on examining the account of these proceedings, is the apparent want of consistency and precision in the reasoning and conduct of the Convention, admitting even the correctness of the general principles on which they profess to act. It would be natural to expect, that in a case of so novel a character, and of such extraordinary interest and importance, every step would be carefully guarded, and no conclusions drawn, which did not follow, in the strictest manner, from their supposed premises. This, however, is far from being the case. The committee have already remarked the difference between the theories of the Convention and the Legislature, as to the second step in the process of nullification.—While the Convention appear to suppose that after a State has annulled an act of Congress, it becomes the duty of the General Government to apply to the States for a grant of the disputed power, the Legislature have addressed themselves directly to the States, and proposed a Convention. The want of consistency in the texture of the Ordinance, is not less apparent. The whole reasoning of that act, and the accompanying papers, supposes that the right of a State to annul an act of Congress, can only exist in the case of an assumption, by that body, of powers not delegated by the Constitution; and for the purpose of bringing the impost laws within this rule, the Convention attempt, at great length, to prove that they do, in fact, involve such an assumption. Thus far their conduct, if not justifiable, is consistent; but after first annulling the tariff laws, the Convention proceed, in open defiance of their own rules and reasoning, to annul an important provision of another law, which has never been regarded by any one as unconstitutional, and which the Convention themselves do not even pretend to represent as being so.—While the judiciary law gives the right of appeal from the State courts to the United States, in all cases involving any question of the validity of an act of Congress, the Ordinance prohibits any such appeal in all cases involving any question of the validity of the acts of Congress which it professes to annul. This is done without even the ceremony of affirming, or attempting to prove, that this provision of the judiciary act involves an assumption of power not delegated by the Constitution.

This feature in the Ordinance renders it, perhaps, in some degree, superfluous, to examine the reasoning by which the Convention undertake to justify its leading provisions. If they can venture to annul one act of Congress, without even pretending to assert that it is unconstitutional, it is not easy to see why they should be at so much pains to make this out, in regard to another, before they subject it to the same process: nor does it seem to be very necessary to inquire, how far they succeed in establishing this proposition, when their proceedings so clearly show, that if it be necessary to their argument, it is in no way necessary to their action. But without enlarging upon this consideration, the committee will proceed to examine, very concisely, the nature of the reasoning by

which the Convention undertake to prove, that any one State has a right to annul an act of Congress, which, in the opinion of such State, involves an assumption of power not delegated by the Constitution. The substance of the argument is understood to be as follows:

The Constitution is a compact between the States, which were, at the time of forming it, and are now, distinct communities, politically independent of each other. It confers on the General Government, certain specific powers, and the assumption by that government of any power not so delegated, is a breach of the compact. But in this, as in all other cases of compacts or treaties between independent States, a breach of the compact by one party, exempts the rest from the obligation they were under to observe it: and each is, of course, the only judge for itself, whether the compact is, or is not observed.

Or, in still more concise language:

The States were independent of each other at the time when they formed the Constitution; therefore they are independent of each other now.

This argument appears to the committee to be defective in both its parts. It is far from being a settled and acknowledged point, that the States can fairly be considered as having been absolutely independent of each other at the time when the present Constitution was formed; and if this were even admitted, it would by no means follow, that they possess, and may exercise under the Constitution, and consistently with it, the rights belonging to mutually and absolutely independent States.

1. It is far from being a settled point, that the States can fairly be considered as having been absolutely independent of each other at the time when the Constitution was formed and adopted. It is well known, that this is a question upon which the ablest statesmen and purest patriots in the country have differed, and at this moment continue to differ, in opinion. The President of the United States, in his late proclamation upon the subject of the proceedings of South Carolina, expressed his belief, that the Acts of Union which preceded the Declaration of Independence, had combined the States into ONE PEOPLE, and that it was in their joint capacity as such, that they formed the Constitution. His predecessor has publicly professed the same sentiment. On the other hand, Presidents Jefferson and Madison, with various other citizens of the highest respectability, many of whom had concurred in the forming of the Constitution, consider the States as having been, from the time of the Declaration of Independence until the adoption of the Constitution, distinct communities, entirely independent of each other.

This diversity of views, among individuals of equal talent and unsuspected integrity, will not appear very extraordinary, when it is recollected that during the period in question, the country was in a revolutionary state. Its condition was analagous to that of England during the interval between the overthrow of the arbitrary government of the Stuarts and the settlement of the Consti-



tution in 1688; or that of France, between the destruction of the old monarchy in 1789, and the final sanction of the present charter, after the three great days of July, 1830. In both the cases alluded to, it is well known, that political institutions, of various and opposite characters, rapidly succeeded each other, and that neither country could be said, with propriety, to possess a regular and settled government. They were in a state of transition from one form of political existence to another, and this was substantially the condition of the United States from the Declaration of Independence until the adoption of the Constitution. It was not only a natural, but, as the committee conceive, a necessary result of this condition, that political events of different and even contradictory characters, should successively occur, and that individuals, as they have been led by circumstances to attach greater, or less importance to one or another of these events, should draw different conclusions as the existing forms of government. On the one hand, the States acted, for many purposes, as distinct communities, claiming to be politically independent of each other; while, on the other hand, they organized a Union among themselves, with a Congress of Delegates at the head of it, who exercised most of the powers of a General Government. It would, perhaps, be difficult to reconcile all the acts and powers of Congress and the State Governments at that time, with any consistent and precise political theory; and the failure of the experiment tends to confirm the opinion, that the elements which entered into the structure of the old confederacy, were incoherent and self-contradictory. The committee are inclined to believe, as they have already remarked, that the future historian will consider the whole period in question as a revolutionary one, and the form of the government as unsettled and fluctuating, until it was finally fixed, for the first time by the adoption of the present Constitution.

2. But the committee deem it unnecessary to dwell upon this point, since, were it even admitted that the States, at the time when they formed the Constitution, were distinct communities, politically independent of each other, it would by no means follow, as the Convention of South-Carolina appear to suppose, that they are still in that condition, and that the Union is a League or Confederacy of mutually and absolutely independent States. The rights and obligations of the parties to a contract, are determined by its nature and terms, and not by their condition previously to its conclusion. As respects the latter point, the only question is, were the parties legally, or in cases when they are not subject to a common government, morally capable of making such a contract? If this question be answered in the affirmative, the previous condition of the parties, in other respects, is immaterial; and in order to ascertain to what the contract binds them, we have only to inquire what the contract is.

Now there can be no doubt, that independent States are morally as capable of forming themselves into a body politic, as independent individuals. A great proportion of the political societies which now exist, or of which we know the history, were consti-

tuted in this way. Hence, were it even admitted, that the States were distinct and independent communities at the time when they framed the Constitution, the fact would no more prove, that they are distinct and independent communities now, than the fact that the two parties to a contract of marriage were single before its conclusion, goes to prove that they are single afterwards. If the States were, at the time when they framed the Constitution, as there cannot be a doubt, morally capable of forming a contract, involving the entire surrender of their political independence, it is quite apparent that, in order to ascertain their rights and obligations under the Constitution, we have to look exclusively to the nature and terms of that instrument, without regard to the mutual relations of the parties before they made it.

Reposing mainly, as has been said, for the justification of their proceedings, upon the argument that the States were independent at the time when the Constitution was adopted, and must therefore of course be independent now, the Convention has in a great measure lost sight of the course of reasoning which is proper to the subject, and have made but little effort to establish their doctrines, by reference either to the general nature of the Constitution, or to its specific provisions. Some considerations appertaining to this branch of the inquiry are, however, to be found in their publications, and to them the committee will now very briefly direct their attention.

Of these considerations the most important is, that the General Government, created by the Constitution of the United States, is a government invested with specific and limited powers, having no general and indefinite powers, excepting such as are necessary to carry the specified ones into effect, and that the powers not conferred upon the General Government are reserved to the States. This is, no doubt, true in fact; but that it was not intended in making this arrangement, to maintain the States in possession of an absolute political independence, with a right of judging for themselves when the General Government exceeds its powers, and annulling any acts involving such excess, is apparent, as well from other particular provisions of the Constitution, as from the general scope and purpose of that instrument.

1. In all cases the general purpose of a contract is one of the most important elements to be taken into view in ascertaining the rights and obligations resulting from it; because the general purpose controls, to a certain extent, the construction of all the particular provisions. It would be absurd to interpret any particular part of an instrument in such a way as would suppose in the parties an intention manifestly contrary to the general object of the whole; as for example, to interpret one of the clauses in a contract of marriage in such a way as would suppose that it was the intention of the parties to remain single. Now it is quite apparent from the general scope and purpose of the Constitution of the United States, that it was not the intention of the parties who framed it, whether considered in their joint or individual capacity, to retain the character of absolute political independence. It is



one of that class of agreements commonly denominated *social compacts*, the principal object of which is to combine the parties forming them into one body politic, or political society, under a common government. This is apparent on the face of the instrument. *We, the people of the United States, in order to form a more perfect union, establish justice, ensure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.* That such is the general scope of the instrument is not contested by the warmest advocates of the doctrines maintained by the Convention of South Carolina. But the precise object which the parties to a social compact have in view in forming themselves into one political society, is to terminate the relation of mutual independence which previously existed between them. If the contract contained a clause providing that the parties should retain their political independence, it would be self-contradictory; and to interpret a doubtful passage or particular provision in such a way as to attribute to the parties such an intention, would as the committee have remarked, involve the same absurdity as to interpret a clause in a marriage contract on the supposition that the parties intended to remain single. It is the essence of a social compact or Constitution of Government, that the parties to it surrender their absolute political independence, and become members of a society whose will is admitted to be the common law. To declare this will, agreeably to the forms prescribed in the Constitution,—in other words, to make and alter the laws as occasion may require, is the office of the Government. No individual or other member of the body politic can possibly as such, exercise the power of making or annulling the laws, for the obvious reason that laws derive their character as such, from being the acts of the Government, and that if an individual, or other member of the body politic, should succeed in giving to his own will the force of law, that is, in compelling the society to obey it, he would at the same time cease to be a citizen, and would concentrate in his own hands the Government of the country. In some extreme cases of intolerable oppression, the individual and other members of the body politic are justifiable in forcibly opposing the execution of the law; but even in these cases there is no claim of any constitutional or legal right to repeal or annul it. The claim is to resist, in the exercise of the natural and inalienable right of self-defence, the execution of what is admitted at the time to be, in form at least, a law.

2. The general scope and objects of the Constitution preclude therefore the idea that it was the intention of the parties to it to retain their absolute political independence, or that they possess any right under it to annul the acts of the General Government. The same conclusions result with equal certainty from a view of its particular provisions. Had it been intended that the States should possess the important power of annulling or repealing at discretion the acts of the General Government, this power would undoubtedly have been given to them in express terms. It is not

even pretended that the Constitution contains any such express concession. Not only is there no express concession to this effect, but the idea that any thing of the kind was intended, is precluded by several provisions of an opposite character. The Constitution gives to the supreme court cognizance of all cases arising under the Constitution, and the laws and treaties made under the authority of the United States. This involves the right of deciding, in the last resort, whether a law is constitutional, which the Carolina doctrine claims for the States. The Convention have accordingly found themselves under the necessity of annulling the section of the judiciary act by which provision was made for carrying this clause of the Constitution into effect without even pretending that it was unconstitutional. Again: *This Constitution, and the laws and treaties made in pursuance of it, are the supreme law of the land, any thing in the Constitution and laws of any State to the contrary notwithstanding.* By this provision, any act of a State, whether performed in its sovereign or legislative capacity, pretending to annul an act of the General Government, is declared in advance to be null and void. As respects the pretension that the States retain under the Constitution their absolute political independence, it may be remarked that, were there no other objection to the doctrine, it would be satisfactorily refuted by the clause which regulates the form of making amendments. It is there provided that any amendment of the Constitution which may be proposed by two-thirds of both Houses of Congress, and ratified by three-fourths of the States, shall be binding on the rest. It is hardly necessary to add, that a community which is not only bound to obey laws which twenty-three other communities have a common agency in making, but which is bound to acquiesce in any changes in the form of the common Government that may be proposed by a certain number of these other communities, can have no claim to the character of absolute independence.

It is apparent therefore, as well from the general objects of the Constitution as from the tenor of its particular provisions, that it was not the intention of the parties who formed it to retain their entire independence, or to exercise the power of annulling the acts of the General Government created by it. The fact that the Government is invested with specific and not indefinite powers, has no tendency to prove the existence of such an intention, and has in fact no bearing at all upon the subject. The question at issue is, how much power the body politic of the United States of America possesses over the individual States of which it is composed. To the decision of this question, it is obviously quite immaterial whether the powers attributed by the Constitution to the General Government, are definite or indefinite. These are exercised upon the individual citizen, and not upon the States, and neither their extent, nor the mode in which they are determined, can have any effect in settling the mutual relations between the States and the United States of America. The powers of all Governments are prescribed and limited, if not by written instruments, at least by usage and by the moral law. When they transgress the limits

prescribed for them, the people cure the evil either by a change in the administration effected in consistency with the forms of the Constitution, or if the case be extreme, by recurring to the natural right of violent resistance to the law. When the powers of the Government are defined by a written instrument, an attempt at usurpation is more likely to be distinctly seen and promptly attended to. But no new remedy is created, and in this, as in all other cases, the people must tolerate the existence of the evil until it can be removed by the silent efficacy of the ballot-box, or must recur at once to forcible resistance. There is, and can be in the nature of things, no middle path between these two courses. Every attempt to prevent by force, the execution of the laws,—by whatever name it may be called,—is, in its nature, *revolutionary*, and can only be defended by such considerations as would justify an act of rebellion.

On the whole, the committee have been led to conclude from the best consideration which they have been able to give to the subject, that the right claimed by South Carolina for the several States, of annulling at discretion any act of the general government which they may deem unconstitutional, has no foundation in the letter or spirit of the Constitution. Nor is it countenanced in any degree by the practice under that instrument. For nearly half a century, during which the government has been in operation, no case has occurred of an attempt by a State to annul one of its acts, although serious discontents have from time to time existed in different quarters, which would probably have led to the adoption of such a course had it been recognized by public opinion as constitutional. The only authority of a practical kind which has ever been adduced in support of it, is that of certain resolutions adopted by the State Legislatures of Virginia and Kentucky, in the years 1798–9. Were it admitted that these resolutions go the full length of the Carolina doctrine, they would still afford no actual precedent, and could only be regarded as an expression of the opinion temporarily prevailing in the Legislatures of these two States, but never even by them reduced to practice. These celebrated resolutions have, however, been recently explained in reference to this very question, by the distinguished statesman who drafted one-set of them, and was at the time the confidential friend and political associate of the author of the other, to intend nothing more than an assertion, in strong terms, of the universally acknowledged right of constitutional opposition to measures regarded as oppressive, and in extreme cases, of forcible resistance. This explanation of his own intentions, and those of his immediate political friends, of course settles the construction to be put upon these resolutions, and removes the only shadow of practical authority and precedent, that has ever been claimed by the advocates of the doctrine of nullification.

As this doctrine receives no countenance from the theory of the Constitution, or the practice under it, it is the less necessary to dwell upon its practical tendency, a topic which would afford very strong corroborating arguments against it, if, as a strict question of

right, it could be considered as doubtful. It hardly requires any argument to shew that the exercise, by each of the twenty-four States, of a right to annul, at discretion, any act of the General Government which they might deem unconstitutional, is wholly incompatible with a consistent and settled administration of the public affairs. Any law which might be supposed, correctly or not, to operate with peculiar hardship upon a particular State, would naturally appear, under the excitement of the moment, to be unconstitutional; and as, in a community so vast as ours, there can hardly ever be a time when there is not some law, which, for some reason, is particularly offensive to some one State, the process of nullification, if once recognized, would be constantly going on in one quarter or another. Every new attempt of the kind would shake the government to its foundations, and it would not probably require the occurrence of many to reduce our happy Union to a state of dissolution, more complete and hopeless than even that of the Old Confederacy. The committee refrain from enlarging upon these results, the necessity of which is, however, apparent to the most superficial observation. The question is argued by Carolina, chiefly, as one of mere right; and the answer on that ground only, is, in the opinion of the committee, so clearly against her, that it would be needless to attempt to sustain it by any considerations of mere expediency.

With this view of the subject referred to them, and under a conviction that it is proper and expedient that the opinion of the General Court of Commonwealth should be distinctly expressed upon it, the committee respectfully submit the accompanying resolves, which embody the most important principles that have now been suggested.

The committee have felt a very deep regret at finding themselves called upon to express opinions unfavorable to the proceedings of a State so distinguished in the annals of the country, and so remarkable for the lofty and generous character of its sons, as that of South Carolina. In so doing, they would not be understood to impeach the motives by which the State has been governed, or to intimate that it has been actuated by any other purpose, than that of procuring relief from a supposed grievance. The committee are well aware, that the purest patriots and wisest statesmen may be led, under the influence of mistaken views and excited feelings, into very dangerous measures. The present proceedings in South Carolina are, in their opinion, of that description. But the committee indulge a confident hope, that by the exercise of the necessary firmness and discretion, on the part of the General Government, the danger may be averted, and that South Carolina herself, recovering from the delusion under which, for some time past she has appeared to labor, may continue to maintain her accustomed place among the most enlightened and patriotic States in the Union.

Before concluding their report, the committee deem it a duty to themselves and to the Legislature, to advert very briefly to some remarks which have been made upon the tendency of the resolves accompanying their former report, and adopted by the almost unani-

mous vote of both branches of the General Court. In certain quarters of high respectability, where the resolves have been brought under discussion, it has been intimated that they favor the doctrine of nullification, because they express the sentiment that the Legislature is not bound, silently, to acquiesce in measures considered by them as subversive of the spirit of the Constitution; and this in the way of instruction to the delegation of the Commonwealth in Congress, for the purpose of preventing the adoption of these measures. The difference between a proceeding of this kind, and an attempt to annul and prevent the execution of existing laws, is too obvious to be overlooked. That the General Government may adopt an unconstitutional measure, is of course possible; and no one can doubt that any portion of the people have a right, in an orderly and peaceable manner, to express their opinion upon the character of any of the measures of the General Government. But when this is done in advance, for the purpose not of denouncing an existing law, but of preventing a threatened mischief, it is not easy to see how the most fastidious judge can find any thing at which to take offence.

But were it even true, that the Legislature of this Commonwealth had expressed the intention of forcibly resisting the execution of an unconstitutional law, it would not therefore follow, that they had countenanced the doctrine of nullification. The right of forcible resistance to the laws, in cases of extreme oppression, is undisputed. If such a case should ever occur, Massachusetts will openly take her stand upon that undisputed and indefeasible natural right. Nullification undertakes to reconcile resistance with submission; to obey and break the law at one and the same time. It must be justified, if at all, on principles entirely different from those which justify the natural right of resistance, and on principles which have never been professed, countenanced or practised upon by the government or people of this Commonwealth.

All which is respectfully submitted.

For the committee,

A. H. EVERETT.

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## RESOLVES

### In relation to the proceedings of the Convention of South Carolina.

WHEREAS, The People of South Carolina, assembled by their Delegates in Convention, have recently passed an act, denominated an Ordinance, purporting to annul certain acts of the Government of the United States, and to arrest their execution within the limits of that State, and have transmitted a copy of the same to His Excellency the Governor, with an accompany address to the peo-



ple of this Commonwealth, setting forth the reasons by which they justify this extraordinary measure; and

**WHEREAS**, It is important that the opinion of the General Court of this Commonwealth should be publicly and distinctly expressed upon those proceedings, in order that their silence may not be construed into acquiescence in the propriety of the same, or approbation of the reasons alleged in justification of them: therefore,

*Resolved, by the Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:* That the Constitution of the United States of America is a solemn SOCIAL COMPACT, by which the people of the said States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty for themselves and their posterity, formed themselves into one body politic, under a common Government: that this Constitution, and the laws of the United States made in pursuance thereof, and all treaties made under the authority of the same, are the supreme law of the land, any thing in the Constitution or laws of any State to the contrary notwithstanding: and that no citizen, State, or other member of the body politic has a right in any shape, or under any pretext, to annul or prevent the execution of the said Constitution, laws or treaties, or any of them, excepting in such extreme cases as justify a violent resistance to the laws on the principle of the natural and indefeasable prerogative of self-defence against intolerable oppression.

*Resolved*, That the right claimed by the Convention of South Carolina for that State, of annulling any law of the United States which it may deem unconstitutional, is unauthorized by the letter or spirit of the Constitution—not supported by any contemporaneous exposition of that instrument, or by the practice under it: inconsistent with the nature of political society, and tending, in practice, to the subversion of public tranquillity, and the complete overthrow of the Government.

*Resolved*, That the President of the United States is empowered, and in duty bound by the express provisions of the Constitution, and by his oath of office, to take care that the laws are faithfully executed: that when attempts are made to disturb by force the execution of the laws, it is the duty of the President to employ the means which are placed at his disposal by the Constitution and laws for the purpose of defeating them: that the Proclamation of the 10th of December last is a judicious, well timed and salutary measure, well calculated to prevent the necessity of recurring to others of a different character: that we approve the determination therein expressed by the President, to enforce the laws, and that we are prepared to support him and the other constituted authorities of the Union, in all the necessary, suitable, constitutional and legal measures, which they may be called upon to adopt for that purpose.

*Resolved*, That while we find ourselves compelled to express an unfavorable opinion of the recent proceedings of South Carolina, we entertain no sentiments of unkindness towards our fellow citizens of that State: that we look back with pride and satisfaction to the brilliant services rendered by South Carolina in the struggle for Independence, and have ever regarded her as among the most distinguished members of the Union: that we deeply regret that measures adopted in good faith, and in a strictly constitutional form, by the constituted authorities of the country, should have been considered by the people of that State as intended to build up another section of the Union at their expense: that we are, and always have been, ready and desirous to listen in a sincere spirit of conciliation, to any propositions for changing, in a constitutional and legal manner, any part of the existing legislation, and to give them all the attention to which they are fairly entitled: and that we earnestly entreat our brethren and fellow citizens of South Carolina, to desist from the irregular, violent and unconstitutional attempts to obtain redress for their supposed grievances, in which they are now engaged, the result of which, if further pursued, can only be to create collision between the General and State Governments, endanger the public tranquillity, and seriously compromise the safety of the persons immediately concerned in them.

*Resolved*, That His Excellency the Governor be requested to transmit a copy of these Resolves and of the Report preceding them, to the President of the United States, the Governors of all the States, and to each of the Senators and Representatives of this Commonwealth in Congress.

In SENATE, March 1, 1833.

Read twice, and passed.

Sent down for concurrence,

B. T. PICKMAN, *President*.

HOUSE OF REPRESENTATIVES, March 9, 1833.

Read twice, and passed in concurrence.

W. B. CALHOUN, *Speaker*.

MARCH 11, 1833.

Approved.

LEVI LINCOLN.

A copy.

Attest.

EDWARD D. BANGS,  
*Sec'y of Commonwealth.*

## RESOLUTIONS

### Of the State of Mississippi.

EXECUTIVE OFFICE, MISSISSIPPI, }  
Jackson, February 6, 1833. }

SIR,

The Resolutions which I have the honor herewith to enclose, are forwarded in compliance with a requisition made on me by the Legislature of this State, with a request that your Excellency will lay them before the Legislature of the State over which you preside.

I have the honor to be, with much respect,  
Your Excellency's ob't serv't,

A. M. SCOTT.

To his Excellency WILLIAM L. MARCY,  
*Governor of the State of New-York.*

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The select committee to which was referred "so much of the Governor's Message as relates to the Resolutions from the States of Louisiana, Maine, New-Hampshire and Pennsylvania, with the accompanying documents," beg leave to

#### REPORT:

That they have had them under consideration, and would recommend, in regard to the resolution first named, the adoption of the following resolution:

\* \* \* \* \*

In relation to the Resolutions from the States of Maine, New-Hampshire and Pennsylvania, and that portion of the Message which points to their consideration, your committee would express the belief that the sentiments of a majority of the people of this State, in regard to the subjects to which they relate, are in accordance with those expressed by the General Assembly in the year 1829, declaring the tariff law of 1828, so far as it contemplated a system of protection, carried beyond the manufacture of such articles as are necessary to the national defence, to be "contrary to the spirit of the Constitution of the United States, impolitic and oppressive in its operation on the Southern States, and should be resisted by all constitutional means." But fearful lest false inferences should be drawn from this expression of public opinion—inferences, calculated to induce a belief that this State is



prepared to advocate and uphold the disorganizing doctrines recently promulgated in South Carolina, your committee deem it their duty to speak plainly, and to undeceive their sister States in this respect. We are opposed to nullification. We regard it as a heresy, fatal to the existence of the Union. "It is resistance to law by force—it is disunion by force—it is civil war." Your committee are constrained to express the opinion, that the State of South Carolina has acted with a reckless precipitancy, (originating, we would willingly believe, in delusion,) well calculated to detract from her former high character for wisdom in council, purity of patriotism, and a solicitous regard for the preservation of those fundamental principles on which *alone* rest the peace, the prosperity and permanency of the Union. Your committee deeply deplore the alarming crisis in our national affairs: they regret it the more as proceeding from the unwarrantable attitude assumed by a sister of the South, whose best interests are identified with our own. In the spirit of brethren of the same family, we would invoke them to pause—to harken attentively to the paternal, yet ominous warning of the Executive of the Union. We would conjure them to await patiently the gradual progress of public opinion, and to rely with patriotic confidence on the ultimate decision of *the talented statesmen* and *pure patriots* in the Congress of the United States. But they would also loudly proclaim, that this State owes a duty to the Union, above all minor considerations. That she prizes that Union less than liberty alone. That we heartily accord in the general political sentiments of the President of the United States, as expressed in his recent proclamation; and that we stand firmly resolved, at whatever sacrifice of feeling, in all events, and at every hazard, to sustain him in enforcing the paramount laws of the land, and preserving the integrity of the Union—that Union, whose value we will never stop to calculate—holding it, as our fathers held it, precious above all price. Your committee would therefore recommend the adoption of the following resolutions:

*Be it resolved by the Legislature of the State of Mississippi, That, in the language of the father of his country, we will "indignantly frown upon the first dawning of every attempt to alienate any portion of our country from the rest, or to enfeeble the ties which link together its various parts."*

*2. Resolved, That the doctrine of Nullification is contrary to the letter and spirit of the Constitution, and in direct conflict with the welfare, safety and independence of every State in the Union; and to no one of them would its consequences be more deeply disastrous, more ruinous, than to the State of Mississippi—that State in which are concentrated our dearest interests—around which cling our most tender ties—the fair land of our nativity or adoption—the haven of our hopes, the home of our hearts.*

*3. Resolved, That we will, with heart and hand, sustain the President of the United States in the full exercise of his legitimate powers, to restore peace and harmony to our distracted country,*

and to maintain; unsullied and unimpaired, the honor, the independence and integrity of the Union.

4. *Resolved*, That the Governor of the State be, and he is hereby required to transmit a copy of the last resolutions, with the preamble, to our Senators and Representatives in Congress, also to the Governors of the different States, with a request that the same may be laid before their respective Legislatures.

DAVID PEMBLE,

*Speaker of the House of Representatives.*

CHARLES LYNCH,

*President of the Senate.*



**IN ASSEMBLY,**

**March 18, 1833.**

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**REPORT**

**Of the committee on colleges, academies and common schools, on the petition of the trustees of the Jefferson Academy.**

Mr. Childs, from the committee on colleges, academies and common schools, to whom the petition of the trustees of Jefferson academy was referred,

**REPORTED:**

The Jefferson academy is located in the town of Jefferson, county of Schoharie, twenty-five miles distant from any other academy, and was incorporated in the year 1824. Your committee are informed that an individual, (since dead,) by the name of Stephen Judd, aided the trustees materially in the erection of a commodious building, and by his last will devised certain lands lying in the vicinity of the academy for its support, estimated to be worth four or five thousand dollars. The bequest is, however, conditional, depending upon the completion of the building by the trustees; that a classical school should be taught therein, and the possession to revert to the trustees after the death of the widow Judd. The widow has offered to relinquish her interest in this land for the sum of one thousand dollars; and the trustees being unable to advance the money have prayed for legislative aid. The possession of this property would relieve the trustees from their present embarrassments, and enable them to place this institution in a flourishing condition.

There is much force in the allegation made by the petitioners, that the present application is the first ever made by the inhabitants of the county of Schoharie for assistance from the State treasury;

and that whilst other seminaries of learning have partaken of the public bounty, no appropriation has been at any time made to the Jefferson academy. Your committee having in view the general benefits resulting from the dissemination of learning, and the fact that this academy is so situated as to afford facilities for education to a dense population, who would be subjected to great inconvenience and expense if this school should be discontinued, have come to the conclusion that the application of the trustees is entitled to the favorable consideration of this Legislature.

The committee having ascertained that certain lands were sold in January last, by the Surveyor-General, belonging to the Literature fund, and not yet appropriated to any specific purpose, would suggest the propriety of directing the payment of the sum of one thousand dollars to the trustees of the Jefferson academy, out of the first moneys hereafter received on the sale of said lands, and to accomplish which object, ask leave to introduce a bill.

**IN ASSEMBLY,**

**March 19, 1833.**

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**REPORT**

**Of the select committee on the petition of G. G. Howland and others, for an act to incorporate the Italian Opera Association.**

Mr. M'Keon, from the select committee to which was referred the petition of G. G. Howland and others, for an act to incorporate the Italian Opera Association,

**REPORTED:**

The petitioners represent, that they have purchased part of a block of land in the city of New-York, for the purpose of erecting a building suitable for musical exhibitions, including the Italian opera, sacred oratorios, and other musical performances of a scientific character.

In furtherance of this object, they have obtained by subscriptions in shares, the amount of one hundred thousand dollars, which they propose to expend in paying for the land, erecting the building and collecting an extensive and valuable library, to contain the works of eminent musical composers.

The intention of the petitioners is to erect a building, which shall in fact be nothing more than a concert hall or musical academy. Similar institutions are liberally fostered in all the capitals of Europe, and it is believed proper encouragement by affording facilities to these applications, will aid the growth of the fine arts in our country, and prosperity of the metropolis.

In consequence of their increasing numbers, the petitioners find themselves to technical legal embarrassments in holding the property in their charge so as to secure the rights of all their associates,

and therefore pray an act of incorporation for the purpose of facilitating their transactions.

The committee would respectfully refer to the precedent afforded, by the incorporation of the sacred music society, as an evidence that the exercise of this power may be productive of benefit. That institution, since invested with corporate powers, has prospered in a high degree, and contributed in a great measure to elevate the scale of sacred music. The committee believing the request of the present applicants reasonable, have directed their chairman to ask leave to bring in a bill in conformity to the prayer of the petitioners.

**IN ASSEMBLY,**

**March 21, 1833.**

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**REPORT**

**Of the select committee on the petition of the inhabitants of the village of Sherburne, relative to the alteration of their act of incorporation.**

Mr. Hyde, from the select committee, to which was referred the petition of the inhabitants of the village of Sherburne, for an alteration of their act of incorporation,

**REPORTED:**

That the petitioners pray that the act of incorporation of said village may be so amended, that the trustees of said village shall be authorised to grant licenses to grocers to retail strong or spirituous liquors to be drank in their groceries.

This part of the prayer of the petitioners your committee are of the opinion ought not to be granted.

The petitioners further pray, that they may be authorised to appoint or elect a constable for said village. This part of the prayer of the petitioners your committee believe is just, and ought to be granted. They have prepared a bill in conformity thereto, and now ask leave to introduce the same.





**No. 269.**

**IN ASSEMBLY,**

**March 25, 1833.**

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**REPORT**

**Of the Comptroller on the petition of Perkins  
Nichols.**

COMPTROLLER'S OFFICE, }  
*Albany, March 23, 1833.* }

The Comptroller, on a reference from the Assembly of the petition of Perkins Nichols, respectfully submits the following

**REPORT:**

The petitioner asks for an extension of the privilege granted by an act passed in 1830, permitting him to redeem two tracts of land which had been sold for taxes in 1826, and bid in for the State by the Comptroller.

The act passed for the relief of Mr. Nichols in 1830, (Chap. 82 of that session,) authorised him to redeem the southwest quarter of Township No. 15, in Great Tract No. 1, in Macomb's Purchase, in the county of Franklin, and also the southeast corner of Township No. 12, in Great Tract No. 2, in said purchase, in the county of St. Lawrence, on condition that the said Nichols, by the first of May, 1830, paid into the treasury the whole amount paid by the State for the lands, and the taxes from 1822 to 1829, inclusive, except for the year 1828, (which probably was omitted in the law by mistake,) and the usual charges thereon, together with the interest on the whole of those amounts, at ten per cent per annum.

The act for the relief of Mr. Nichols was passed on the 18th of March, and he was allowed until the first day of the May following to comply with its terms. This he was unable to do for the  
[Assem. No. 269.]

causes set forth in the petition. In consequence of his failure to comply with the law, the Comptroller on the fifteenth day of February, 1833, released the two tracts before described, containing together 15,291 acres of land, to the people of the State: and on the 15th of February, 1833, the Commissioners of the Land-Office directed the Surveyor-General to advertise and sell the two tracts of land referred to in the petition of Mr. Nichols. The minimum price fixed by the Commissioners of the Land-Office is six cents per acre, amounting to \$917.46 for the two tracts of land. The Surveyor-General has advertised the lands to be sold on the 29th day of April next.

If Mr. Nichols is to be allowed to purchase the lands referred to in the former act for his relief, at the price which he was by the terms of that act to pay for their redemption, there should now be added the interest to the present time, as well as the expense of advertising, and all other expenses to which the State may have been subjected in relation to the said lands.

The petitioner seems not to have presented his application until a movement was made by the Commissioners of the Land-Office, to sell the land in order to indemnify the State for its advances, and which he ought to have repaid three years ago. If a law is passed for his relief, it would be proper to require some guaranty that the payment of the taxes on the land in question which were due prior to 1822, will not be again deferred for an unlimited period. After the indulgence which has already been given, the petitioner cannot reasonably expect that the sale should be stopped, until he pays up the amount due the State. When this is done, there is no objection to giving up the lands to the former owner. If such an act is passed, it should provide that the Commissioners of the Land-Office be authorised to grant a patent, instead of authorising the petitioner to redeem according to the terms of the former act for his relief. This is rendered necessary in consequence of the release of the land by the Comptroller to the people of the State.

All which is respectfully submitted,

A. C. FLAGG, *Comptroller.*

**No. 274.**

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**IN ASSEMBLY,**

**March 26, 1833.**

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**MESSAGE**

**From the Governor, transmitting resolutions of the State of Alabama, relative to the Tariff and the doctrine of Nullification.**

**TO THE ASSEMBLY.**

**GENTLEMEN,**

I herewith transmit to you the proceedings of the Legislature of the State of Alabama, relative to the tariff, the principle of protection and the doctrine of Nullification.

**W. L. MARCY.**

*Albany, 25 March, 1833.*



## RESOLUTIONS.

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EXECUTIVE DEPARTMENT, }  
Tuscaloosa, Ala. February 28, 1833.

SIR: I have the honor to transmit to you the annexed Resolutions and recommendations, with the request that your Excellency will submit them to the Legislature of New-York.

With high consideration,

I have the honor to be your ob't. serv't.

JOHN GAYLE.

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## REPORT

*Of the select committee of the House of Representatives, to whom was referred so much of the message of the Governor, as relates to the Tariff, to the principle of protection and to the doctrine of Nullification.*

The select committee to whom was referred so much of the message of the Governor, as relates to the tariff, to the principle of protection and to the doctrine of nullification, have had the same under consideration, and have instructed me to report a preamble and resolutions, which they respectfully submit to the House for its adoption.

Your committee deeply impressed with the present alarming crisis in our history, have given to the subject that profound consideration, which its paramount importance so justly demands.

So much has been said and written on the subject submitted to them, that they may be said to be exhausted, and they will therefore submit a very few remarks prefatory to the resolutions, which they recommend to the adoption of the House.

In a country of such vast extent as the United States, embracing such a variety of soil, climate and products, and inhabited by a people, whose pursuits are as various as the climate under which they live; any attempt on the part of the government to force manufactures into existence, by governmental bounties, must of necessity operate unequally, and therefore be unjust.

If it be a truth, not now to be questioned, that no government can justly take from one portion of its citizens a part of their property, to benefit another, it is more especially unjust in a country like ours, composed of different States, who are united in one common bond, only for the purpose of providing for the common de-

fence, of promoting the general welfare, and securing the blessings of liberty to themselves and posterity. For these purposes, this union was formed, and it cannot be supposed, that those who consented to it, intended by implication and construction, to confer on the general government powers destructive of their happiness and best interest. Laws having their operation, and professing to derive their authority from the constitution under which we live, being opposed to the true interests of every section of the republic, and unjust in their operation on the Southern States, even if sustained by the letter of the constitution, are contrary to its spirit and at war with the general scope and tenor of that instrument.

It cannot be believed, that if the framers of the constitution had assigned the exercise of such a power, as the right to create and protect domestic manufactures, by a system of high duties, that it would have been left to inference or implication; its framers therefore could not have intended that such a power should be exercised. This reasoning is founded on, and these results drawn from, the instrument itself; but in addition thereto, contemporaneous history informs us, that in the convention which framed the constitution, it was proposed in various modes to give that power to Congress, and refused.

It is the exercise of this power, which a large majority of the South believe to be against the spirit of the constitution, and no inconsiderable number, contrary to its express letter, which has driven them to consider their government as foreign to their interests, and alien to their feelings. Instead of looking up to it with pride and veneration, as the world's last hope, and as the favorite resort of freedom, no inconsiderable portion of the South have begun to estimate its value; and to contemplate even disunion itself, as an evil less formidable than submission to the exactions of the government.

And now at this fearful crisis, when one of our co-States has assumed the alarming attitude of declaring an act of Congress void, within her limits, and the note of preparation is sounded to sustain this attitude by force, what shall Alabama do? Our answer is, never despair of our country. We believe that there is a vital energy, a living principle inherent in our institutions, and a sense of justice residing in the bosoms of our fellow citizens, which when properly appealed to, must succeed. We concede that our Northern brethren believe that they are acting within the pale of the constitution; but can it be believed, that they will by insisting on the obnoxious duties, peril the union of these States, and make shipwreck of the last hope of mankind? Can any pecuniary benefit compensate for results like these? If blood be shed in this unhallowed contest, a wound will be inflicted, which may never be healed; to confidence will succeed distrust, mutual recriminations, and mutual injuries, and the choicest blessings of Heaven, by the madness and folly of man, will be converted into the most deadly poison.

Deeply impressed with these views, we recommend the adoption of the following resolutions, which we are satisfied embody the opinions of our constituents, and in their name propose to our co-States a federal convention.

*Be it resolved by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That we consider the present tariff of duties unequal, unjust, oppressive and against the spirit, true intent and meaning of the constitution; that if persevered in, its inevitable tendency will be to alienate the affections of the people of the southern States from the general government.

*And be it further resolved,* That we do not consider the tariff of 1832, as fastening upon the country the principle of protection, but that we receive it as the harbinger of better times, as a pledge that Congress will at no distant period, abandon the principle of protection altogether, and reduce the duties on imports to the actual wants of the government, levying those duties on such articles as will operate most equally on all sections of the Union.

*And be it further resolved,* That nullification, which some of our southern brethren recommend as the constitutional remedy for the evils under which we labor, is unsound in theory and dangerous in practice, that as a remedy it is unconstitutional and essentially revolutionary, leading in its consequences to anarchy and civil discord, and finally to the dissolution of the Union.

*And be it further resolved,* That we earnestly entreat the people of this State, not to distrust the justice of the general government, and to rest satisfied, though long delayed, it will certainly be accorded to them. And above all things, to avoid those dangerous and unconstitutional remedies proposed for their imitation and adoption, no matter how specious their exterior, which may lead to bloodshed, and disunion, and will certainly end in anarchy and civil discord. And at the same time we would most solemnly adjure the Congress of the United States, in the name of our common country, to abandon the exercise of those dubious and constructive powers, claimed under the constitution, the assertion of which has produced *jealousy*, excitement and dissatisfaction to the government, and if persevered in, will in all human probability, dissolve this Union. By this means, and by this alone, can we be prevented from fulfilling our high destinies, and our onward march to greatness be arrested.

*And be it further resolved,* That as we have now for the first time in the history of our country, presented to us the appalling spectacle of one of the States of this Union, arraying herself against the general government, and declaring sundry acts of Congress void and of no effect within her limits; presenting to Congress the alternative of repealing the obnoxious laws or permitting her secession from the Union, and preparing by an armed force to sustain the position she has assumed, and as we cannot silently look on and witness the failure of the high raised hopes and just expectations of those patriots who cemented our liberty with their blood: Therefore, as a last resort, we recommend to our co-States the calling of a Federal Convention, to meet in the city of Washington on the first of March, 1834, or at such other time and place as may be agreed on, which shall be authorised to derive and recommend such plan, which will satisfy the discontents of the South, either by an explicit denial of the right of Congress to protect do-



domestic industry by duties on imports laid for protection, or by defining and restricting the power aforesaid, within certain prescribed limits, and making such other amendments and alterations in the constitution, as time and experience have discovered to be necessary.

*Resolved*, That the Governor be desired to transmit a copy of the foregoing resolutions to the President of the United States, and to the Executive of each of the States, with a request that the same may be communicated to the Legislature thereof.

*Resolved further*, That the Governor furnish a copy of said resolutions to each of the Senators and Representatives of this State, in the Congress of the United States.

Approved, January 12, 1833.

## RECOMMENDATIONS

*Of the General Assembly of the State of Alabama, to the President of the United States, to the State of South Carolina, and to the different States.*

The General Assembly of the State of Alabama, have received and considered with absorbing interest, the late ordinance of South Carolina, with the address of the co-States, accompanying the same, together with the proclamation of the President of the United States, consequent thereon. The attitude assumed by the State of South Carolina and the Government of the United States through its Chief Magistrate, forebodes a crisis which threatens the peace of society and the harmony of the Union, and which should be deplored by every one who loves his country and liberty. The existence of our constitution and the integrity of the Union, require the instant exertion of that patriotism, forbearance and virtue, which have hitherto characterised the history of our government. Omitting, on this occasion, to enter into the causes which have produced the present afflicting posture between one State and the Federal Government; this General Assembly now affectionately and solemnly appeals to the Congress of the United States, and to the State of South Carolina, for that forbearance, patriotism and virtue which alone can restore, by mutual sacrifice of opinion, harmony, peace and prosperity to our common country. The only bonds of our union, and the sole preservatives of rational and constitutional liberty, are a strict adherence on the part of the constituted authorities, to the principles of our government—the affection of the people for that government, and a firm persuasion of the equality and justice of its administration, aided by a spirit of forbearance on the part of those States who may depend from the opinion of the majority.

To this end the General Assembly of Alabama recommend to the Congress of the United States, a speedy modification of the tariff laws, in such manner as to equalize their burthens, and cause only so much revenue to be collected as will be necessary to pay the expenses of the government, in its constitutional and economi-

cal administration. This Assembly further recommends to the Congress of the United States, as she has already done to her co-States, the call of a Federal Convention, to propose such amendments to our Federal Constitution, as may seem necessary and proper, to restrain the Congress of the United States from exerting the taxing power, for the substantive protection of domestic manufactures. This Assembly further earnestly recommends to the State of South Carolina, to suspend the operation of her late ordinance, that the unfortunate collision of powers between that State and the government of the United States, may be amicably adjusted in such manner as not to impair the rights and powers granted to the general government, or retained and reserved to the States, or the people of the Constitution. This General Assembly further urgently recommends to the State of South Carolina, to abstain from the use of military power, in enforcing her ordinance, or in resisting the execution of the revenue laws of the United States. And this General Assembly, with equal earnestness, recommends to the government of the United States, to exercise moderation, and to employ only such means as are peaceful and usual to execute the laws of the Union. The General Assembly of this State further recommends to her co-States, to concur with this State in the foregoing recommendations.

*Resolved*, That the Executive of this State be requested to transmit copies of the foregoing recommendations to the Executive authorities of each of the United States; to the President of the United States, and to our Senators and Representatives in Congress, with instructions to lay the same before the Congress of the United States.

Approved, January 12, 1833.



**IN ASSEMBLY,**

**March 27, 1833.**

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**REPORT**

**Of the Commissary-General, on the memorial of the corporation of the city of New-York.**

*To the Honorable the Assembly of the State of New-York.*

The Commissary-General, to whom was referred the memorial of the corporation of the city of New-York, asking the Legislature to release to them a lot of ground, 50 feet by 89 feet, situate in the sixth ward of the said city, which lot is a part of the north yard of the State arsenal, and adjoining the dispensary.

**RESPECTFULLY REPORTS :**

I. That much of the public property in field artillery, gun-carriages, caissons, tumbrils and baggage wagons, is *indifferently* provided with shelter for protection; that much of this property has remained so indifferently provided for since the removal of the enclosed sheds, 139 feet in length by 21 feet in breadth, formerly situated on the lot now occupied by the dispensary, in the place of which sheds no other accommodations for this property have been erected; that many carriages have, in consequence of the removal of said sheds, for the sake of necessary protection, been forced into the arsenal to the injury of the vehicles and the building, and to the great inconvenience of the military and workmen, who have business to attend to at the building; that there is no convenient place in the south yard for the erection of enclosed sheds remaining.

II. That the corporation in their memorial in relation to the lot, state, " that said ground has no building upon it, and is not used

for any military purposes whatever;" that the memorialists have, from some cause, fallen into an error in this statement, which the Commissary-General deems it his duty to correct; that the rear of the lot in question contains one large shed, 43 feet in front, by 21 feet in depth, 30 feet of which is inclosed, and is in as good condition, floor excepted, as any shed on the opposite enclosure; that this shed is occupied by baggage-wagons and tumbrils, and has always been so occupied; that seven feet of the lot asked for is occupied by a part of the brick work-shop of the arsenal; that these buildings are on the lot requested to be released, and cover part of the 50 by 89 feet; that they are necessary for the purposes for which they are now occupied, and should not, in the opinion of the Commissary-General, be relinquished by the State, except for other sufficient accommodations to be placed on the premises by the party asking the release of the lot; *that the whole of this lot is wanted for gun-sheds, which it is absolutely necessary to have erected, and for the erection of which, preparations were being made by the Commissary-General at the receipt of this reference.*

III. That the corporation ask the release of the lot in question, being desirous of "granting the said ground to the Mechanics' Institute and the College of Pharmacy," "for the purpose of erecting a suitable building for the objects of their respective institutions;" and that from the report of the committee of the common council annexed to the memorial, the Lyceum of Natural History, and the Mechanics' Society, are, from inference, to share the accommodations of the building; that this dove-tail of interests, with these objects of accommodation in view, may, in the opinion of Commissary-General, be induced to embrace the want of accommodations of the State for their field-carriages, and equipage, and to erect the basement of the contemplated building, so constructed, as to render necessary facilities of deposit and protection for them, while the upper stories of the building may be arranged for the wants of the school-master in general.

IV. The Commissary-General does therefore respectfully recommend to the Honorable the Legislature of the State, to release the lot to the corporation with the proviso, of the erecting of a building under the special conditions, that the basement story of the building shall be constructed above ground, eight feet in the clear from the surface of the adjoining yard of the work-shop, and that this whole basement apartment, shall, in all respects, be fitted

for the use and accommodation of the State for military purposes, and that such a law of release, embracing these conditions, be passed, and be offered for the acceptance of the memorialists.

All which is respectfully submitted.

HENRY ARCULARIUS,

*Commissary-General.*

COMMISSARY-GENERAL'S OFFICE, }  
*New-York, March 25th, 1833.* }



**IN ASSEMBLY,**

**March 28, 1833.**

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**REPORT**

**Of the select committee on the petition of Simeon Crane and others.**

Mr. Farrington, from the select committee to whom was referred the petition of Simeon Crane, Ornan Crane and Joel Crane, praying for a loan from the State of two thousand dollars on mortgage security, to enable them to prosecute more successfully the discovery and manufacture of salt,

**REPORTED:**

That your committee have given the petition referred to them a due consideration, and deem the subject of it worthy the consideration of the Legislature.

The petitioners reside in the town of Delhi, in the county of Delaware. Their petition sets forth that they are the owners of lot No. 17, in William Fisher's front division of the Franklin patent, and that said lot contains 220 acres. That about four years ago they discovered indications of a salt spring on said lot, after which they employed persons experienced in boring for salt water at Salina and other places. They commenced their operations on the slope of a hill on the said lot at a convenient point, about forty rods distant from and thirty feet above the level of the place where the indications of the salt spring first appeared. That having penetrated to the depth of 146 feet, of which the lowermost 84 feet was soft red rock, salt water of an inferior degree of strength was discovered, and that on boring through another stratum of similar rock a depth of 78 feet, a fountain of salt water of great clearness and of a degree of saltiness five times greater than the other, was discovered, which fountain now rises to within nine feet of the



surface of the ground at the orifice of the well, being about twenty feet above the level of the place where salt water was first discovered. That the said petitioners have prosecuted their experiment so far as to have produced several barrels (about 12 barrels,) of salt of an excellent quality; but being apprehensive that the water yet discovered is not strong enough to warrant the erection of works for the manufacture of salt, they have bored into the third stratum of rock to the depth of 61 feet, without having as yet reached another fountain.

The petitioners also state, that in prosecuting their discoveries thus far they have expended the sum of two thousand dollars, being the whole extent of their resources, excepting the lot of land before mentioned; and that judging from the indications before specified, they are sanguine in the belief that on boring through the last mentioned stratum of rock, salt water of a superior quality may be obtained; but that they must of necessity desist from further operations unless they can obtain assistance to enable them to prosecute their discoveries to a completion. They therefore pray that the sum of two thousand dollars may be loaned to them for that purpose by the State, and that a mortgage on the said lot of land be taken by the State as security for the payment of the principal and interest of such loan; and for such other relief as the Legislature in its wisdom may deem proper.

The petition is signed by fifty or sixty individuals, many of whom are personally known to a majority of your committee, and are men of high respectability and great personal worth. These individuals unite in the prayer of the applicants. The spring in question is situated about four miles northeast from the village of Delhi, the county seat of Delaware county, and the value of the lot proposed to be mortgaged as security for the loan asked for is estimated at from 1,500 to \$2,000. The applicants are sober, industrious and discreet men, and your committee have full confidence that the loan, if granted, would be faithfully applied to the purposes for which it is asked.

It is obvious that the discovery of salt water in sufficient quantity and of such a quality as to induce the erection of salt works and the manufacture of salt in that section of the State would be of great importance to the community. Delhi is in the interior of the State, being 67 miles from the Hudson river, where for the most

part the supply of salt for the county is procured. Its distance from the Onondaga salt works, from which a small quantity of salt is procured, is over 100 miles. These are the only sources of supply for this heavy article, and a land transportation the only means of obtaining it. Your committee have no data by which they can estimate the quantity of salt consumed in the county of Delaware for any given time; but it must be evident to every person at all conversant with the business of the county, that sufficient quantities are consumed to render its transportation a heavy tax upon the inhabitants.

It may not be improper to remark that the county of Delaware, from its situation, has never participated in the advantages of the various internal improvements which it has been the wise policy of the government to construct, and which have dispensed their benefits so bountifully to other portions of the State. On the contrary, its burthens have been increased by the construction of those works. The taxes upon one of the necessities of life have been increased by an imposition of an increase of duties upon its manufacture, and by a diversion of those duties from the general purposes of the government to the more immediate benefit of more favored parts of the State.

Your committee advert to these facts because they consider the object of the application, in its effects, in some degree a public measure, and one in which a considerable portion of the State is interested.

It is observable that the lot of land proposed as security for the payment of the loan is inadequate security for the sum asked for; but as the discovery of salt in any considerable quantities would greatly enhance the value of said lot, and as the prospect of such discovery seems to be fair, and if successful would greatly promote the interests of the public, your committee have come to the conclusion to recommend, under certain restrictions, the loan prayed for by the petitioners. They have therefore instructed their chairman to introduce a bill to that effect.

All which is respectfully submitted.



**No. 277.**

**IN ASSEMBLY,**

**March 28, 1833.**

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**MESSAGE**

**From the Governor, transmitting resolutions of the  
State of Maine relative to Nullification.**

**TO THE ASSEMBLY.**

**GENTLEMEN,**

I herewith transmit to you the accompanying preamble and resolves of the Legislature of the State of Maine, in relation to the recent proceedings of South Carolina.

**W. L. MARCY.**

*Albany, March 26, 1833.*



# RESOLUTIONS.

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## STATE OF MAINE.

IN SENATE, *February 1, 1833.*

The joint select committee, to which was referred so much of the Governor's Message as relates to the difficulties existing between South Carolina and the General Government, and the documents from South Carolina, and several other States, upon the same subject, have had the same under consideration, and

### REPORT:

That they have given their anxious and serious attention to the several documents referred to their consideration; all of which have grown out of the unhappy controversy now subsisting between South Carolina and the General Government. Most, if not all of them, contain speculative views of the nature and objects of our political system. In the several communications there is observable a wide diversity of sentiment; and in some, especially those from South Carolina, the conclusions adopted are made the subjects of a very extended and elaborate argument. To review and compare with each other the several opinions and doctrines set forth in these several communications, to examine fully the various arguments and objections which they oppose to each other, and to investigate what, if any, errors of fact, of principle or of reasoning, may be contained in any or all of them, would seem to be a task of great labor, and one not likely, perhaps, to result in any correspondent benefit.

This State, on two occasions, has heretofore expressed her opinion upon the subject of Federal Relations. It is believed that the report and resolutions of 1827, relative to internal improvements, and the report and resolutions of 1831 upon the same subject, contain a general outline of the sentiments of Maine, as regards the origin and purposes of our political system, the powers conferred upon the General Government by the Constitution, and the rights reserved to the people and the States. As a declaration of our principles and opinions, as to the relative powers and duties of the General Government and the several State Governments, we deem it unnecessary, therefore, at the present time, to do more than simply refer to the several reports and resolutions above alluded to.

Without entering into the discussion of political theories, we have chosen rather to take a practical view of the unhappy difficulties which agitate the public tranquillity, and alarm the public

mind. Viewing with the deepest feelings of regret the excitement which pervades our sister State, and the rash and presumptuous measures to which it has led, and deprecating those measures as utterly inconsistent with the spirit of forbearance and compromise in which our Union had its origin, and by a perseverance in which it can alone be maintained, we cannot, at the same time, forget that this excitement, this disturbance of the public tranquillity, and all the dangers which this unnatural controversy threatens to bring upon the country, have for their origin and moving cause the policy of the protective system. Under this aspect of public affairs, it has seemed to your committee the more useful course to respectfully interpose the voice of this State for conciliation and forbearance. There are none among us who would justify the untimely and ruinous resistance which South Carolina threatens against the existing laws of the United States, of whose injustice she complains. On the other hand, a large majority of the citizens of Maine have ever entertained, they still entertain, the most undoubting convictions of the impolicy and oppression of high protecting duties.

Under these circumstances, and with these views, the Committee submit the following resolves.

J. WILLIAMSON, *Chairman*.

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## RESOLVES.

*Resolved*, That we are not insensible to the wrongs and sufferings of our brethren of South Carolina, under the unjust and oppressive burdens imposed upon them by the tariffs of high protective duties. But while we deplore their grievances and are ready to unite with them in any and every peaceful and lawful mode of redress, we cannot nor will we give our countenance or support to their projected scheme for relief. We regard nullification as neither a safe, peaceable or constitutional remedy, but as unsound and dangerous in theory and in practice, tending directly to civil commotion, disunion and anarchy. We implore them to pause in their precipitate career, to suspend their rash and revolutionary measures, and trust to that redeeming spirit of justice which is a ruling characteristic of the American people.

*Resolved*, That the acts of Congress usually denominated tariff laws, so far as they were passed palpably and solely for the purpose of protecting and fostering particular branches of industry, are unequal in their operation, and contrary to the spirit, true intent and meaning of the Federal Compact.

*Resolved*, That it is due to a spirit of mutual conciliation, to the demands of justice, to a decent respect for the opinions and interests of large portions of the community, and absolutely necessary to the preservation of the Union, that the tariff laws should be gradually (but speedily) abated to the imposition of such duties only as are required for the purpose of a revenue sufficient to de-

fray the ordinary expenses of the General Government, confined to its appropriate objects, and economically administered.

*Resolved*, That we heartily approve the policy and measures of President Jackson's administration, and in the present difficult and threatening aspect of public affairs, we look with confidence to the patriotism, vigilance and firmness of our Chief Magistrate, as sure pledges that all his efforts will be directed to preserve unimpaired the union, happiness and glory of our Republic.

*Resolved*, That the patriotic spirit and tone of the President's recent proclamation, relating to the extraordinary proceedings of South Carolina, meet our warmest approbation, and we approve of the principles and policy avowed therein, as expounded, not in accordance with the federal doctrine of consolidation, but with the democratic doctrine of State rights and a limitation of action of the Federal Government to the powers expressly delegated to it by the Constitution, and in accordance with the several messages of President Jackson to Congress, and the uniform tenor of the acts of his administration—and in support of all constitutional measures adopted by him to preserve the Union, we tender him our undivided support.

*Resolved*, That the Secretary of State be, and hereby is, directed to transmit a copy of these resolves with the preamble, to each of the Representatives in Congress from this State.

*Resolved*, That the Governor be, and hereby is, requested to transmit a copy of these resolves with the preamble, to the Executive of each of the other States of this Union and the President of the Senate of the United States.

*In the House of Representatives, February 18, 1833.*

Read and passed.

NATHAN CLIFFORD, *Speaker*.

*In Senate, February 19, 1833.*

Read and passed.

FRANCIS O. J. SMITH, *President*.

*February 20, 1833.*

Approved.

SAMUEL E. SMITH, *Governor*.

A true copy,

Attest:—R. G. GREENE, *Secretary of State*.





**No. 278.**

**IN ASSEMBLY,**

**March 14, 1833.**

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**REPORT**

**Of the committee on claims, on the petition of  
Michael Lusk.**

Mr. Russell, from the committee on claims, to which was referred the petition of Michael Lusk, praying compensation for revolutionary services,

**REPORTED:**

The claim of the petitioner is in all respects similar to that of Truman Spencer, heretofore reported to this House, a detail of which is contained in Document No. 186; to which the committee beg leave to refer, for the reasons which induce them in the present case to offer for the consideration of the House the following resolution:

*Resolved*, That the prayer of the petitioner, Michael Lusk, ought not to be granted.



**No. 279.**

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**IN ASSEMBLY,**

**March 27, 1833.**

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**REPORT**

**Of the committee on public lands, on the petition of  
Beverly Garrison.**

Mr. Mabee, from the committee on public lands, to whom was referred the petition of Beverly Garrison, praying that the Legislature would pass a law investing him with the title of a lot of land described in the said petition as having escheated to the people of this State, on account of the alienage of John Owen, to whom the said petitioner conveyed the said lot of land,

**REPORTED:**

That they have had under consideration the said petition, and have maturely examined the petition and documents accompanying the same, and that from them it appears that the petitioner legally conveyed the lot mentioned in his petition to John Owen, and that it does not appear that the land mentioned in the petition escheated to the people of this State, other than as mentioned in the the petition.

Your committee are therefore of opinion that it is not a case of legislative interference, and that the petitioner have leave to withdraw his petition.



**IN ASSEMBLY,**

**March 30, 1833.**

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**REPORT**

**Of the committee on Indian affairs, on the petition  
of the trustees of the St. Regis Indians.**

Mr. Farrington, from the committee on Indian affairs, to whom was referred the petition of the trustees of the St. Regis Indians, praying for an alteration of the law to prevent trespasses upon their lands,

**REPORTED:**

That the petitioners complain of the operation of two sections of the Revised Statutes, and pray for their repeal: One of which sections [sec. 74, p. 209, vol. 1, R. S.] provides that "every person who shall trespass on any lands belonging to the people of this State, or any Indian lands, by cutting or carrying away timber growing thereon, shall forfeit and pay the sum of twenty-five dollars for every tree that shall be cut or carried away by him or under his direction." The other section, [sec. 75, p. 209, vol. 1, R. S.] directs the district attorney, after paying the costs of the prosecution out of the penalty recovered, to "pay the residue thereof into the treasury of the county."

It is alleged by the petitioners that the first of these provisions includes the individuals of their tribe as well as other persons.

Your committee are of opinion that the petitioners are mistaken in their construction of the section in question. The penalty is given against persons only who "shall trespass" by cutting or carrying away timber. Now, it is apprehended by your committee, that the Indians residing upon their reservations who may "cut or carry away timber growing thereon," cannot be considered "trespassers," withing the meaning of the statute.

The other section seems to be a necessary and proper provision, to indemnify the county for the costs and expenses of prosecutions to protect the lands of the Indians from trespasses; as your committee are informed that the penalties collected are usually inadequate to pay the expenses incurred. Besides, the Indians are the witnesses usually relied upon to prove the trespasses committed on their lands. To appropriate, therefore, the penalties collected to their use, would be to make them witnesses in their own cause, or to deprive the prosecution of the benefit of their testimony.

The principle upon which the laws of this State have uniformly proceeded in relation to the Indian lands is, that those lands ultimately belong to the State. The Indian title is *usu fructuary* merely, while the fee of the land remains in the State. It is upon this principle, together with a view of benefitting the Indians as well as the State, that the State has hitherto prohibited the purchase of Indian lands by the whites without the intervention of the laws, and protected them from the depredation of intruders.

It is easy to foresee that if white men are permitted to enter upon the reservations of the Indians and to make their own bargains for the timber, unrestrained by law, the value of the land, both to the Indians and to the State, would soon be depreciated, without any corresponding benefit to either. The superior skill in the art of bargaining possessed by the white man would be too much for the uncultivated Indian.

Your committee are therefore of the opinion that the prayer of the petitioners ought not to be granted.

All which is respectfully submitted.

**IN ASSEMBLY,**

**April 1, 1833.**

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**REPORT**

**Of the select committee on the report of the Trustees of the Capitol.**

Mr. Livingston, from the select committee, to which was referred the report of the Trustees of the Capitol, relative to the park and grounds in front of and adjoining to the Capitol,

**REPORTED:**

That they have had the said report under consideration, and as the facts relative to the situation of the said park and grounds are fully detailed in the report of the Trustees, your committee deem it unnecessary to recapitulate them. The Trustees state that a further appropriation from the treasury is necessary to carry into effect the provisions of the act relative to the Capitol, and the grounds connected therewith, passed April 14th, 1832.

Your committee have prepared a bill, making an appropriation in accordance with the recommendation of the Trustees, which they now ask leave to introduce.





**No. 283.**

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**IN ASSEMBLY,**

**April 1, 1833.**

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**REPORT**

**Of the Comptroller, relative to the loss sustained by the State, by the insolvency, &c. of banking institutions incorporated by the Legislature of this State.**

**CHARLES L. LIVINGSTON,**  
*Speaker of the Assembly.*

**SIR—**

Herewith is transmitted a report upon the resolution referred to this office by the Hon. the Assembly of the 21st inst.

I have the honor to be,

With great respect,

Your ob't. serv't.

**A. C. FLAGG.**



# REPORT, &c.

COMPTROLLER'S OFFICE. }  
*Albany, March 30, 1838.* }

*To the Assembly of the State of New-York.*

The Comptroller, in answer to a resolution of the Assembly, requiring him to furnish a statement of "the amount of money, stock or other property, which this State has lost by the insolvency, bad faith or bad conduct of any of the banking institutions incorporated by the Legislature of this State,"

## RESPECTFULLY REPORTS:

That the amount of stock owned by the State in banks which have become insolvent, is as follows, to wit:

Middle District bank, .....	\$50,000 00
Bank of Hudson, .....	15,000 00
Bank of Columbia, .....	20,000 00
<hr/>	
Total loss in bank stock, .....	\$85,000 00

The State has lost in bills of insolvent banks, the following sums, to wit:

Franklin bank, .....	\$3 00
Balance due on the certificate of the receiver of the	
Franklin bank, .....	103 18
do. do. Middle District bank, ...	547 88
do. do. Greene County bank, ...	28 00
<hr/>	
Total loss of in bills of insolvent banks, .....	\$682 06

This makes the whole loss of the State, "by the insolvency, bad faith or bad conduct of banks incorporated by the Legislature," eighty-five thousand six hundred eighty-two dollars and six cents,

All which is respectfully submitted.

A. C. FLAGG,



**No. 284.**

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**IN ASSEMBLY,**

**April 1, 1833.**

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**REPORT**

**Of the committee on medical subjects, on the petition of the Medical Society of the city of New-York.**

Mr. Lee, from the committee to whom was referred the petition of the Medical Society of the county of New-York, praying for an alteration in the medical law,

**REPORTED:**

That the object of the petitioners is, to require an examination before the New-York Society, previous to the admission of an individual to the practice of physic and surgery in the city of New-York; and this too, after such individual has complied with all the requisitions now prescribed by law, and has previously been duly examined and licensed to practise.

In order properly to understand the bearing of this request, it will be necessary to notice the respective classes of physicians who make up the mass of practitioners, on whom the asked for requisition will fall.

1st. The licentiates of the respective county societies, and of the State medical societies.

Before a person can be licensed by either of these, the law requires that he shall have studied either four years, or else three years, and in addition to the three years have attended a full course of lectures in some medical college.

On presenting certificates to the above effect, and also shewing that he is twenty-one years of age, and of good moral character,  
[Assem. No. 284.]

the candidate is examined as to his qualifications in medicine and surgery, by the board of censors of the county where he applies for examination.

These censors are gentlemen selected by the medical societies of the several counties for their information in their profession, their experience and skill in practice, and for their standing and reputation as upright and honorable citizens; which qualifications, are a sure guaranty that their examinations will be conducted with ability and impartiality, and secures community against the licensing of ignorant and dangerous applicants.

2d class. The graduates of the medical colleges of this State; upon filing their diploma of Doctor of Medicine, granted by the Regents of the University, are thereby licensed to practise. A license obtained from either of the above sources, entitles the recipient to practise in any part of the State.

The New-York Medical society ask to be authorised to examine every such licentiate, should he move to the city of New-York to practise. This your committee believe should not be granted; because, by authorising a re-examination of persons thus having studied, thus having been examined and admitted to practise, would be an expression by the Legislature that they believed the officers of our medical institutions, and our country physicians, are incapable of teaching their profession—are incapable of judging of the qualifications of students—or else that they are so dishonest and partial, and so regardless of the interests of the community, that they would confer licenses upon the ignorant and undeserving. Another reason why your committee believe this should not be granted—it puts in the hands of those whose interest it is to prevent eminent and justly popular physicians from moving to the city—the power of rejecting gentlemen who for very many years had been practising in the country with very great success, and with general approbation—instances of this kind might occur. For these reasons, your committee believe that so much of the prayer of the petitioners as is above alluded to, ought not to be granted.

The third class which the petitioners wish to subject to examination when they come into the State of New-York to practise, are licentiates and graduates from other States and countries. Your committee believe that a law granting the powers asked for,

would be salutary in guarding our citizens against the impositions which they are now exposed to, by the facilities given by our present laws to foreigners to become practising physicians without previously being examined by our authorities.

Your committee believe the prayer of the petitioners, as regards this last class, should be granted. They therefore have prepared a bill, which they beg leave to introduce,





# IN ASSEMBLY,

April 1, 1833.

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## REPORT

Of the select committee on "An act to restrain the powers of the New-York Life Insurance and Trust Company."

Mr. Burwell, from the select committee, to which was referred "An act to restrain the powers of the New-York Life Insurance and Trust Company,"

### REPORTED:

That in the discharge of their duties they have given the subject great attention, and having come to a conclusion adverse to the bill, deem it due to the House and to the very able and honorable member who introduced the bill, to state briefly the reasons which have operated upon the minds of the committee.

The act to incorporate the New-York Life Insurance and Trust Company was passed March 9, 1830, with express power,

1. To make insurance on lives.
2. To grant and purchase annuities.
3. To make any other contingent contract involving the interest of money and the duration of life.
4. To receive moneys in trust, to accumulate the same at such rate of interest as might be obtained or agreed on, or to allow such interest thereon as might be agreed on, not exceeding in either case, the legal rate.

To accept and execute *all such trusts* of every description, as might be committed to them by any person or persons whatsoever, or as might be transferred to them by the court of chancery or by a surrogate.

In order to guard the public, and prevent, as far as practicable, any misuser of these powers on the part of the company, the eighteenth section of the act provided that the board of directors should exhibit annually to the Chancellor, on such day as he should appoint, a full statement of their affairs, in such form, and verified in such manner, as the Chancellor should direct. The Chancellor was further authorised, should he deem it proper, to refer such statement to one of the masters of his court, to make a full and thorough investigation into the affairs and management of the company, and to report his opinion in relation to the ability and integrity with which its affairs are conducted; the prudence and safety of its investments; *the security afforded to those by whom its engagements are held, and the advantage derived by the public from its operations.*

By the next section it was declared, that upon the exhibition of any such annual statements, or upon the coming in of a master's report thereon, the Chancellor might recommend to the *trustees* such alterations and amendments in the regulations and by-laws of the company as he should deem to be required by the *public good*, and a just regard to the security of the creditors; and if any recommendation so made by him should be neglected or without just cause disregarded by the trustees, the Chancellor should make a full communication of the facts to the Legislature, at their first session thereafter.

These provisions are, in the opinion of the committee, wise and salutary, and are amply sufficient to control the operations of the company so far as to prevent any detriment to the public good, and to secure those from loss who hold the engagements of the company.

On the nineteenth day of November, 1831, the Chancellor made an order that the company would exhibit a statement of its affairs as directed by the said act on the first day of January in each year, to which the committee would call the attention of the House, for the sole purpose of showing the fidelity and care with which the Chancellor has performed his duty.

It also appears that this company have rendered their accounts annually, and to the satisfaction of the Chancellor, and that nothing has yet transpired in the management of their affairs contrary to the grants in their charter, or calculated to shake the public confidence in its usefulness.

At the present moment, when the public debt of the United States is about being paid off, and when the period is rapidly approaching for closing the United States Bank, and for the payment of a large amount of our canal stocks, the committee believe it will be highly beneficial to the community to invite the re-investment of a portion of those funds by way of deposit with trust companies. Their entire withdrawal from the State would produce pressure and perhaps a derangement in the finances of the country; whereas a re-investment of such portion of them as is required by the wants and business of the country, could not prove otherwise than highly beneficial.

The argument has been used that the company is not limited in the amount that it may receive in deposits and re-loan. Whether such a limitation ought in prudence to have been inserted in the charter originally, is not for the committee to determine; different Legislatures might disagree as to the policy of such a limitation. No such limitation is inserted in other monied corporations. The banks are all permitted to receive an unlimited amount in deposit, though they cannot issue their own notes to exceed twice and a half their capital: and no objection is made to the banks receiving and lending the capital of those who are willing to make them their *trustees*. It is urged, however, that there ought to be some proportion between the capital of the company and the amount of its deposits; and that if the latter exceed the former by a large amount, the *depositor* is not safe. The committee however are of opinion that the depositor's security depends chiefly upon the skill and fidelity with which the company manages its business, and that the provision in the charter requiring the Chancellor annually to inquire into the security afforded to those by whom its engagements are held, is ample and sufficient.

In granting this charter the Legislature seem to have intended to place it under the jurisdiction of the court of chancery, and to have constituted the Chancellor as the sentinel on behalf of the public to give the alarm in cases of danger to the community, or in security to the innocent depositor; and the committee have no doubt that so high and important a trust will ever be executed with vigilance and fidelity.

The committee, believing as they do, that capital is yet wanted in many counties in this State, and that the Trust company affords

a mutual convenience to both borrower and lender, might, for the reasons before mentioned, conclude their report, but they crave the indulgence of the House to submit their views on that section of the charter which gives the Legislature the power to alter, modify and repeal the charter.

This clause is one of recent origin, and is now contained in all acts of incorporation. Without this clause it is well settled that the Legislature cannot repeal, impair, or alter the rights and privileges conferred by the charter against the consent and without the default of the corporation judicially ascertained and declared. This great principle of constitutional law was settled in the case of *Dartmouth College, vs. Woodward*.

Sound policy seems to dictate, that this important power to alter and repeal should be used with great discretion and moderation, and not be exercised without just cause and serious complaint. A large amount of property is now invested in these corporations, upon the faith of the government, that while there is no complaint they will be secure from the arbitrary exercise of the power of the Legislature to destroy this species of property.

The committee are of opinion that the Legislature would not interfere without at least such *proof* as would induce a court of justice to grant a rule to show cause, and it appears that the Legislature, in granting the charter under consideration, intended to go further, and direct the Chancellor, whenever in his opinion the public good or a just regard to the security of creditors should require it, to recommend an alteration of the by-laws of the company, and in case such recommendations were not complied with by the trustees, to communicate the same to the Legislature, at the next session thereafter. The committee have no hesitation in saying, that in such a case it would be proper, and the duty of the Legislature would require their interference; but until then, or until some state of facts equally imperative shall require our interference, the committee believe it would be establishing a precedent fraught with great danger, to disturb the acts of their predecessors where third persons have invested their property relying upon the faith of the government, and the stability of the laws.

From the first introduction into a charter of this reserved power, it has always been the understanding of the Legislature, of the community, and of stockholders, that it was in its character

remedial, and placed upon the exercise of a sound and legal discretion; that it would not be called into action to the prejudice of a corporation, or of its stockholders, unless upon actual proof that the provisions of the charter had been violated or abused, or upon evidence furnished by experience, and ratified by the complaints of the public, that the exercise of the corporate powers as granted was hostile to the interests of the community. Would it be morally right for one Legislature to abrogate or essentially change the privileges of a corporation, merely because they differed in opinion from the Legislature by which the charter was granted as to the propriety of the grant itself? Would a Legislature, because they had the power, claim the right also to interfere upon grounds of speculation and conjecture, and without the slightest evidence of present and certain evil? An interference upon such grounds would, in the opinion of the committee, be a violation of public faith, and a breach of the most solemn contracts of the Legislature, not only with the stockholders but with every individual who, looking to the security afforded by the provisions of its charter, trusts his funds to the management of the company. Corporate property is now deemed as secure as any other species; but if it rests upon the mere will of power, and that power is to be used without proof, without the consent of those who have confided in the faith of the Legislature, and without a sound discretion, what is its value? Would it not then fluctuate with party; would not seats be sought in the Legislature to depress or enhance its value? If such were our system of legislation, the confidence of the public at home and abroad would be shaken in the stability of all our corporated companies, and the character and honor of the State of New-York degraded. Such is not the course of our proceeding, or the principles upon which a wise and prudent legislator would act. The prudent capitalist ought to be invited to invest his funds in our institutions which have heretofore rested upon the rock of public faith, and not driven out to make room for the reckless and imprudent.

Believing as the committee do, that no precedent can be found, and no sufficient reason adduced, for altering the charter of the New-York Life Insurance and Trust Company, in so material a manner as the bill proposes, they have come to the conclusion that it ought not to be passed into a law.

On the subject of reducing the rate of interest which the company may receive, the committee give no opinion, as a law has already passed this house, and it would seem inexpedient to place this company on any other ground than subject to the general law upon that subject.

All of which is respectfully submitted.

**IN ASSEMBLY,**

**April 1, 1833.**

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**REPORT**

**Of the committee on public lands, on the petition of  
Joseph Brown.**

Mr. Mabee, from the committee on public lands, to whom was referred the petition of Joseph Brown, praying that the Legislature would pass a law investing him with the title of a lot of land described in the said petition, and conveyed by the petitioner to Ezra Cornell, and by the said Ezra Cornell to John Owen, and as having escheated to the people of this State, on account of the alienage of the said John Owen,

**REPORTED:**

That they have had under consideration the said petition and documents accompanying the same, and that from them it appears that the petitioner legally conveyed the lot mentioned in his petition, to Ezra Cornell, and Cornell conveyed to John Owen, as stated in the petition; and that it does not appear that the land mentioned in the petition, escheated to the people of this State, other than as mentioned in the petition. Your committee are therefore of an opinion that the prayer of the petition ought not to be granted; and that the petitioner have leave to withdraw his petition,





**No. 288.**

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**IN ASSEMBLY,**

**April 4, 1833.**

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**REPORT**

**Of the Regents of the University, on the bill to incorporate a medical college in the city of Albany.**

*To the Speaker of the Assembly.*

**SIR,**

I have the honor to enclose the report of the Regents of the University on the bill entitled "An act to incorporate a medical college in the city of Albany," referred to them by the honorable the Assembly.

I have the honor to be,

Your most obed't serv't,

**S. DE WITT.**

*April 3, 1833.*



## **REPORT.**

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*To the Honorable the Assembly:*

The Regents of the University, to whom was referred by the honorable the Assembly, the bill entitled "An act to incorporate a medical college in the city of Albany,"

**RESPECTFULLY REPORT:**

That having referred the said bill to a committee of their Board, and having received from that committee a report thereon, which they have adopted, they herewith transmit a copy of said report, and request the same to be received as their report, made under the order of reference from the honorable the Assembly.

Respectfully submitted.

By order,

SIMEON DE WITT,  
*Chancellor.*

*April 3, 1833.*



## DOCUMENT.

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*Report of a committee of the Regents of the University, adopted by them, and transmitted with their Report to the honorable the Assembly.*

The subscribers, being a majority of the committee to whom the subject of establishing a medical college in the city of Albany has been referred, do respectfully report to the Regents:

That they have collected all the information which the time allowed them to prepare this report, would enable them to procure. Several gentlemen of the medical profession, who have examined the merits of the subject under consideration, have kindly favored the committee with many interesting particulars: all of which it may not be necessary to recapitulate in this report. The committee, therefore, in presenting to the Regents the result of their investigation, will confine themselves principally to the train of reasoning which has brought them to the conclusion which they now submit, and to such facts as may appear to them pertinent to the subject under consideration.

The great and important question that has been submitted by the honorable the Assembly to the Board of Regents for their opinion, as it appears to the committee, is whether the establishment of a medical college in the city of Albany, will have the effect to advance the character of medical science in the State.

In consulting the opinions that have been entertained by many distinguished medical gentlemen who have written on the subject of increasing the number of medical colleges in this State, and of those who have personally favored the committee with their views of the expediency of the measure under consideration, it appears that very different sentiments have been entertained and advocated with equal confidence as to their soundness and practical utility.

The plan of increasing the number of medical colleges has been supported on the ground that it would tend greatly to diffuse medical information through this State. That there are many students in different parts of the State, who have great personal merit, and a laudable ambition to qualify themselves for the arduous duties of the medical profession, who are unable to obtain that instruction which they wish to procure, in consequence of the expenses to which they are subjected in attending either of the existing colleges; and that others have been induced on the ground of economy to resort to neighboring institutions in the States of Vermont and Massachusetts.

It has been satisfactorily shown to the committee, that there have been many students from this State, who have received their medical instruction in the States of Vermont and Massachusetts, and who are authorised after their return to this State, to pursue their professional avocations without further examination in pursuance of the provisions of our existing laws.

There have also been many considerations of a local character, which have been presented to the committee to prove the expediency of having a medical college established in this city, but which the committee cannot recognize as entitled to any influence in deciding upon the question.

The principle of competition between medical colleges has also been urged as a valuable auxiliary in fostering the medical reputation of our country.

From the statistical information that has also been communicated to the committee, it appears that there are nine medical institutions under the patronage of the public authorities in the New-England States, and it has hence been argued, that there was necessarily a deficiency of those privileges of instruction in this State, where the population was about equal to the six New-England States.

This process of reasoning has necessarily led your committee to the consideration of the important question, within what limit should the grants for medical colleges in this State be confined? If the argument arising from the comparative population existing between this State and the New-England States is to be considered as any guide, it would necessarily tend to the establishment of at least five times the number now existing in this State.

The idea also of bringing instruction home to the proximity of those who wished it, would be followed by the same consequences: And the granting of the charter now sought for upon any of those grounds, would necessarily lead to an indefinite number of similar institutions in this State.

The sentiment, as advocated by a very distinguished medical professor a few years ago, is unsound, that medical instruction under the patronage of government, ought to be "common as the light, and free as the atmosphere we enjoy."

But this opinion by no means militates against the utility of that private instruction which exists in this city or in New-York to a great extent, and which affords distinguished advantages to the pupils who are favored with these opportunities. The error consists, as the committee believe, in supposing that whenever medical instruction is given advantageously, it becomes a necessary duty of the government of the State, to make provision for the admission of the pupils to the privileges of practitioners, without further examination. It is a fact well established, that both in this country, in England and Scotland, instruction to private classes is often made profitable, and it is undoubtedly eminently useful. And yet it is well known that the greatest advantages which a student can enjoy have necessarily been obtained only at those institutions of the greatest celebrity, and which are sustained by the pa-

tronage which the public has by its laws created, and also protected from indiscreet competition.

All the States of this Union, with the exception of Virginia and North Carolina, have laws regulating the study and practice of medicine. It is well known that much time has been occupied by the different Legislatures of this State, in the passage of laws intended, at all events, to exalt the medical profession, and thus secure to the community, intelligent and well instructed practitioners in the healing art. The bounties of the State have also been liberally bestowed upon our several medical colleges, since the year 1792. If, therefore, the principle of competition and rivalry between medical colleges is to be encouraged by an increase of the number, it goes far to show, that the wisdom of the previous Legislatures of this State upon the subject, has been thus far misdirected. The sad experience that we have had in this State, between rival institutions, which were in the city of New-York, is fraught with instruction to all those who believe that an increase of the number of colleges would necessarily elevate the character, and promote the diffusion of sound medical science.

In Scotland there are but four universities which can confer medical degrees; and that of Edinburgh being cherished by a protective policy, has acquired a reputation from the exalted talents of its professors, from the time of its foundation by the elder Munro, in 1719, which no other institution, in any other country, has enjoyed.

In England there are but two institutions which confer medical degrees, and yet it is well known, that the science of medicine has been cultivated with unbounded success in that country, where the study and the practice of the art is rigidly guarded by the public laws.

In France, with a population of about thirty millions, there are but three medical institutions under the patronage of government.

In this State we have two medical colleges; one established in the city of New-York, yielding all the advantages in favor of medical instruction which a city with a population of 200,000 can afford. The expense of a complete course of lectures in New-York city, including the matriculation fee, is one hundred and five dollars, during a term of four months. The contingent expenses of a student in that city, are necessarily left to his own prudence and the extent of his means. An entire course of lectures in the Western Medical College subjects the student to the expense of about fifty-four dollars, in a term embracing sixteen weeks. And his other contingent expenses are as cheap as can be procured in any other part of this State. Both of these institutions are at this time in a most flourishing condition; in each of which nearly two hundred students are annually instructed by professors of distinguished talents and eminent acquirements. The property belonging to the trustees of the college at Fairfield, consists principally of real estate; upon which are erected the public buildings for the accommodation of the professors and students, estimated to be worth fifteen thousand dollars; and it appears by one of the recent reports from the trustees of that institution, that the pro-



fessors had individually advanced, for the erection of the public buildings, about five thousand dollars.

If a student has the advantage of ample pecuniary means, the Medical College in New-York affords him all the opportunities and advantages which an education in a city can possibly bestow. If his pecuniary means are limited, he can procure at Fairfield, all the advantages which the institution and distinguished professors can bestow, for about one hundred dollars for the entire term, including all expenses.

To show the necessity of a new medical college in this State, a reason has been urged, founded upon the allegation, that more students than are now instructed annually in the institutions in this State, cannot be accommodated in the lecture-rooms advantageously, especially when attending the lectures of the professors of surgery and anatomy. Upon inquiring into this subject, your committee are induced to believe that the objection is not well founded; and that at least about three hundred pupils can be advantageously instructed in a lecture room; at both of the institutions in this State, on the branches alluded to above.

If the question should be asked, when ought the Legislature to increase the number of medical colleges in this State, we would respectfully answer, whenever the number of pupils resorting to the institutions already organized, shall have become too numerous to be benefitted by the public lectures, and not until that time arrives.

Your committee are therefore of the opinion, that all local considerations that have been noticed, and the argument derived from the comparative population of this State, with different districts of the United States, should not influence the Regents of the University, as the guardians of this branch of education, to yield their assent to increase the number of medical colleges. And it may also be remarked in this place, that we have already nineteen or twenty medical institutions in the United States, authorized by the public authorities, to give instruction, many of them indeed sustaining a reputation of an humble order, resulting, as your committee believes, from the want of that extensive patronage which is necessary to command the most talented professors in our country.

It is not to be expected that a physician who enjoys all the advantages of a distinguished reputation in his profession, can be induced to withdraw from the lucrative practice which he must necessarily command, and bestow his time and the benefit of his talents in instructing fifty or sixty pupils for four months in the year for the fees that are ordinarily paid to the lecturer at the different medical institutions.

Your committee are therefore of the opinion that it would be injurious for the Regents of the University to give their approbation to the plan of increasing the number of medical colleges, whether the application should come from this city or from any other part of this State, believing as they do, that it is the true policy of the Legislature of this State to bestow all its patronage upon the two existing institutions, and that it is equally the duty of the Board

of Regents to see that the professors chairs are filled by the most distinguished medical gentlemen who can be induced to accept of the appointments from the pecuniary advantages resulting from such situations.

There is one other question which your committee beg leave to submit to the consideration of the Regents. It is understood to have been the subject of serious consideration among medical gentlemen in this State, whether the laws now in existence, on the subject of admitting licentiates from different medical institutions ought not to be altered, so as in all cases to require a new examination before they can be admitted to practise within this State.

Your committee believe that such a legislative provision would have a very salutary effect in preventing young gentlemen in this State from going to very cheap schools in the neighboring States, and also prevent all impositions upon the community by unqualified practitioners who may have received their diplomas from other places.

A law of this kind would not be a serious breach of that comity which ought to exist between the guardians of public instruction in neighboring States on this subject. It has been ascertained that a prohibitory law of the character referred to, exists in New-Jersey, and also in Massachusetts.

In New-Jersey, the law provides that any person coming from another State, with his certificate of having studied the requisite number of years, and satisfactory evidence of his qualifications, may be examined and licensed by the censors.

In Massachusetts, the law provides that in cases of persons who are licensed beyond the Commonwealth, the censors shall inquire whether the practice of the body before whom the candidate has been examined, has been such as to "entitle their approbation to full respect."

It has been ascertained that by an act passed by the Colonial Parliament of Upper Canada, on the 17th of February, 1827, a diploma or license from a university in some part of the dominions of the King of Great Britain, or from the Royal College of Physicians and Surgeons in London, can alone authorize the person administering the executive department of government, to grant a license to the applicant to practise physic and surgery in the province.

Your committee have also been satisfactorily informed that similar prohibitory provisions on the same subject exist in the statutes of Lower Canada.

(Signed,)

JAMES KING,  
PETER WENDELL, M. D.

*Albany, April 1st, 1833.*



**No. 289.**

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**IN ASSEMBLY,**

**April 4, 1833.**

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**REPORT**

**Of the Comptroller, on the petition of Philip Church,  
referred to him by the Assembly.**

COMPTROLLER'S OFFICE, }  
*Albany, April 4, 1833.* }

**To CHARLES L. LIVINGSTON,**  
*Speaker of the Assembly.*

**SIR—**

Herewith is presented a report on the petition of Philip Church, referred to the Comptroller by the Assembly.

Respectfully your obedient servant,  
**A. C. FLAGG.**



# REPORT.

COMPTROLLER'S OFFICE, }  
*Albany, April 4, 1833.* }

*To the Assembly of the State of New-York.*

The Comptroller, to whom was referred by the Assembly, the petition of Philip Church, of the town of Angelica, in the county of Allegany, respectfully submits the following

## REPORT:

The petitioner states, that he is the owner of various lots of land in Allegany county, and that in the years 1830 and 1831, his lands and other lands of which he had the agency, were improperly and unjustly assessed; and that illegal, unjust and improper taxes have been charged upon such lands in an illegal manner.

The lands thus assessed have been returned to the Comptroller's office, and the prayer of the petitioner is, that the Legislature will direct the Comptroller to suspend the sale of said lands, until the petitioner and those for whom he is agent, can have an opportunity of obtaining redress by a legal investigation of the injury complained of.

The petition is accompanied by an affidavit of Philip Church, in which is set forth sundry charges of the supervisors for personal services, in order to show the illegal or irregular expenditures which were made and assessed upon the land in question. Some of these charges appear to be extravagant; and it is possible that the supervisors were not as rigid in auditing their own accounts, as they were those of other persons, or as they ought to have been.

The affidavit also charges that two of the supervisors, after serving with the board until nearly the close of the session, "asked for and obtained leave to resign their offices as supervisors and members of the board, and were on the same day appointed by said board, superintendents of the poor of the county of Allegany;" and notwithstanding these appointments, the two persons in question received pay as supervisors for the whole session.

A special act was passed in 1829; which declares that, "no supervisor of any town shall be appointed to hold the office of superintendent of the poor in any county in this State." The resignations of the two supervisors, if tendered only to the board, were not made in conformity to the law relative to town officers. Their resignations, by section 33, page 348, first Revised Statutes, must be made to three justices, who, for "sufficient cause," may accept such resignations. If the persons in question had resigned in this manner, they had no right to act at all at the session of said board; and if they had not thus resigned, then their appointment was a gross and palpable violation of the act of 1829, forbidding such appointments. If the right to accept the resignations had been vested in the board, still the whole transaction must be regarded as an evasion of the spirit and meaning of the act above referred to.

The affidavit charges, that the board of supervisors in 1831, appropriated 200 dollars to purchase a toll bridge across the Genesee river in the town of Portage. If this bridge had become a town charge, and if the town would have been "unreasonably burthened" by repairing it, in such case the appropriation may have been proper.—Section 119, page 524, first Revised Statutes.

It is further alleged, that the board of supervisors in 1830 and 1831, passed resolutions authorising the town collectors to draw from the treasurer of the county, fees on the amount of taxes on lands returned to the Comptroller, and accepted by him.

The Comptroller does not find any authority given to the boards of supervisors to make such allowances to the collectors. The collectors are allowed 5 per cent on all sums collected and paid over by them, unless their fees are established at a less per centage by the town-meeting, under subdivision 9, § 5, p. 340, 1st Revised Statutes. The county treasurer, by § 38, p. 396, 1st R. Statutes, is required to charge the town collector with "the sums to be collected by him," and in settling the collector's accounts, the treasurer gives him credit for all sums which cannot be collected. The 5 per cent is charged to the collector in the total amount of the tax rolls, and the 5 per cent is credited to him on all sums not collected. On the sums paid over, the collector retains his per centage, and is credited with the amount thus retained as his fees for collection.

This balances the treasurer's books, and leaves the 5 per cent collected on non-resident lands in the county treasury; because the Comptroller, after examining the returns for non-resident lands, pays to the county treasurer the whole sum assessed upon the lands, including, of course, the sum added for collector's fees.

When there is a State tax, the Comptroller, by § 29, p. 403, 1st R. S., is required to charge the county treasurers with the amount of the State tax, "crediting them with their own fees and the fees of the collector." The same section declares that "no fees shall be allowed by the Comptroller to the county treasurers or the collectors, in adjusting the accounts of the county treasurers, for such portion of the State tax as is paid by credit given for taxes on non-resident property returned to him." This section negatives the claim of fees to collectors on non-resident taxes.

The affidavit of Mr. Church complains of an excessive over valuation of land in some cases, and an extreme under valuation in other cases: And represents, that in examining the rate of assessment in each town, the lowest tax on the assessment is  $1\frac{1}{2}$  per cent, and the highest upwards of  $2\frac{1}{2}$  per cent. This difference in the rate of taxation might be occasioned by a difference in the charges upon the several towns, and the relative value of the real and personal property in the respective towns. A variance in the rate of assessment between the different towns, does not prove that any of the assessments are illegal or irregular.

The affidavit also complains that the board of supervisors attached their warrants to the rolls of the assessors, leaving the taxes against individuals in blank, to be carried out afterwards by the supervisors of each town. The law contemplates and requires that the tax roll shall be completed by the board. The 33d section, p. 395, 1st R. S. says, "they shall estimate and set down, in a fifth column, to be prepared for that purpose in the assessment rolls, opposite to the several sums set down as the valuations of real and personal estates, the respective sums in dollars and cents, rejecting the fractions of a cent, to be paid as a tax thereon." A subsequent section requires the board to annex a warrant to the assessment roll, under the hands and seals of the board.

The supervisors, in attaching their warrant to the tax roll in blank, have proceeded irregularly; but there is no complaint that the tax upon individuals has been carried out so as to do injustice



to the individuals assessed. The sum to be charged upon a town was ascertained by the board, and whether the rate was 1½ or 2½ cents on the dollar, it was carried out at the same rate upon all the individuals assessed in the same town.

Admitting that the proceedings of the supervisors are irregular; that they have paid themselves extravagantly, and that they have appointed themselves to offices which they ought to have filled with some of their fellow-citizens; still there is no sufficient reason furnished, in the opinion of the Comptroller, for suspending the sale of the lands of Philip Church for non-payment of taxes. These lands have been returned to the Comptroller's office, and the State treasury has advanced to the county of Allegany the entire sum returned as assessed upon non-resident lands. The illegal proceedings of the supervisors of Allegany cannot be urged as an offset to the claim of the State for remuneration for its advances, in paying the tax upon non-resident lands. Mr. Church may have reasonable cause to complain of the acts of the board of supervisors; but between him and the Comptroller's office the account stands thus: In 1830 and 1831, Mr. Church neglected or refused to pay his taxes, and the State paid them for him, and instead of refunding the sum thus advanced, Mr. Church now asks the Legislature to interpose and suspend the collection of the sum due from him until he can obtain redress for the misdeeds of the supervisors of Allegany county.

Whatever legislative action may be deemed necessary to guard against abuses on the part of the board of supervisors, it is the opinion of the Comptroller that no good cause is furnished for suspending the sales of lands for taxes in the case of the petitioner.

All which is respectfully submitted.

A. C. FLAGG, *Comptroller.*

**No. 290.**

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**IN ASSEMBLY,**

**April 2, 1833.**

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**ANNUAL REPORT**

**Of Jasper S. Keeler, an Inspector of Flour for the  
city of Albany.**

Annual return of flour inspected in the city of Albany, for the  
year 1832.

47,356 barrels superfine flour.

2,161 " scratched fine, middlings and bad.

1,873 half barrels superfine, &c.

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51,390 barrels in all.

**Fees** for inspecting 51,390 barrels, at 2 cents,..... **\$1,027 80**

**Deduct** expenses for men, tools, plugs, &c..... **358 37.**

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**\$669 43**

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All of which is respectfully submitted.

**JASPER S. KEELER,**

*Inspector.*

To the Hon. C. L. LIVINGSTON,

*Speaker of the House of Assembly.*

*Albany, April 2, 1833.*



**No. 291.**

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**IN ASSEMBLY,**

**April 4, 1833.**

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**MESSAGE**

**From the Governor, transmitting a copy of the reports and resolutions of the States of Massachusetts and Mississippi, relative to a proposition for a Convention of the States, to revise the Constitution of the United States.**

**TO THE ASSEMBLY.**

**GENTLEMEN:**

I herewith transmit to you a copy of two several reports and resolutions of the Legislature of Massachusetts, expressing their sentiments in relation to a proposition for a Convention of the States, to revise the Constitution of the United States: also the proceedings of the Legislature of Mississippi, on the same subject.

**W. L. MARCY.**

*Albany, April 3, 1833.*



## DOCUMENTS.

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### REPORT

*Of the special joint committee on the message of the Governor, of January 19, transmitting resolutions of South Carolina, proposing a Convention of the people, to revise the Constitution of the United States.*

#### EXECUTIVE DEPARTMENT.

CHARLESTON, SOUTH CAROLINA, }  
January 5, 1832.

SIR—

I have the honor to transmit the annexed resolutions, passed by both branches of the Legislature of South Carolina, with a request that the same may be laid before the Legislature of your State.

With high consideration, I am,

Very respectfully, your ob't. serv't.

ROB. Y. HAYNE.

TO HIS EXCELLENCY,  
*The Governor of Massachusetts.*

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IN THE SENATE, 13th December, 1832.

The committee on Federal relations, to whom was referred that portion of the Governor's message, No. 3, which relates to the call of a Convention of the States, respectfully report the following preamble and resolutions.

*Whereas*, serious causes of discontent do exist among the States of this Union, from the exercise, by Congress, of powers not conferred, or contemplated, by the sovereign parties to the compact, therefore,

*Resolved*, That it is expedient that a Convention of the States be called as early as practicable, to consider and determine such questions of disputed power, as have arisen between the States of this Confederacy and the General Government.

*Resolved*, That the Governor be requested to transmit copies of this preamble and resolutions to the Governors of the several States, with a request that the same be laid before the Legislatures of their respective States, and also to our Senators and Re-

representatives in Congress, to be by them laid before Congress for consideration.

*Resolved*, That the Senate do agree.

*Ordered*, To the House of Representatives for concurrence.

IN THE SENATE, 19th December, 1832.

The House of Representatives returned, with their concurrence, the report of the committee on Federal Relations, on that portion of the Governor's message, No. 3, which relates to the call of a Convention of the States.

A true copy from the Journals.

JACOB WARLEY,  
Clerk of the Senate.

## COMMONWEALTH OF MASSACHUSETTS.

IN SENATE, February, 1833.

The special joint committee, to whom was referred, among other things, that portion of His Excellency the Governor's message, relating to the subject of the preamble and resolutions of the Legislature of South Carolina, proposing that a "*Convention of the States should be called, as early as practicable, to consider and determine such questions of disputed power as have arisen between the States of this confederacy, and the General Government,*" have had the same under consideration, and respectfully submit the following REPORT in part.

Upon the first presentment of the resolutions in question, taken in connexion with the matter contained in the preamble, with which they are introduced, your committee were considerably at a loss to determine what should be regarded as being their precise scope and object. The question occurred to them, whether it was the intention of the Legislature of South Carolina to invite a Convention of the States, with a view to certain specific amendments of the Constitution of the General Government, in conformity with the provisions in the fifth article of that instrument, or to assume the novel and extraordinary ground that such a convention was necessary, or expedient for the purpose, merely, of considering, and determining, in their sovereign capacity, certain questions of *disputed power*, which are supposed to exist between that State, more particularly, and the Government of the Union.

With reference to this point, the committee were naturally led, in the first place, to a consideration of the very unusual manner, (in case an amendment of the Constitution, in conformity with the article alluded to, were alone contemplated,) in which the proposition is submitted to the Legislature of Massachusetts.

Since the first organization of the Federal Government, it has, as the committee believe, been the uniform practice of the Legislature of a State, whenever it has proposed to bring about any amendment or change in the constitution of that government by

a convention of the States, to specify, in their application to other States for co-operation and support in such a measure, the precise points wherein the existing provisions of the system were supposed to be doubtful or insufficient, and the nature and extent of the correction proposed to be applied. This form of application, which, whether prescribed or not by the terms of the article before referred to, would seem to be such as the nature of the case requires, appears, nevertheless, to have been not inadvertently, but studiously, avoided by the Legislature of South Carolina on the present occasion.

In another particular, the novelty of the proposition now submitted to this Legislature, not as respects its form only, but its matter and substance is not less conspicuous. It is not proposed that a convention should be called, with a view to any particular amendment, or even, in general terms, to a revision of the Constitution of the General Government, but that it should take upon itself, when assembled, in a manner wholly unknown in any existing provision of the federal compact, the office of umpire, and sit in judgment on certain disputes which are alleged to exist between a State or States and the nation. It is believed by your committee, that, with the exception of one solitary case of analogous description, to which they may hereafter have occasion to advert, for another purpose, but which, considering the time of its occurrence, and the fate that awaited it, they can hardly suppose would be relied upon as affording the authority of a precedent, the proposition now submitted is entirely unexampled in the history of this Government.

It is, at any rate, most manifest, that if assented to by the States, it would necessarily be attended with the most fatal consequences to the Union. If the principle be sanctioned, that whenever a single member of this confederacy, conceiving itself aggrieved by any, even a questionable measure of the General Government, shall be permitted, first, to resist the measure, and then to summon a convention of the whole, in order to consider and determine the matter in dispute, it is easy to foresee what utter degradation of all the regular authorities of the government, what scenes of anarchy and disorder throughout the land must inevitably and speedily ensue. But it appears to your committee, that the proposition, in itself, is not more extraordinary than is the sweeping assertion with which it is prefaced, and which seems indeed to constitute the only grounds upon which it is predicated. In the preamble to the resolutions in question, it is declared "*that serious causes of discontent do exist among the States of this Union, from the exercise by Congress, of powers not conferred or contemplated by the sovereign parties to the compact.*" The committee will not trust themselves to express, in terms such as their feelings might prompt them to employ on the occasion, the surprise, as well as the regret they have experienced at meeting with a solemn, deliberate announcement like this, from the legislative body of a respectable member of this Union. Nor will they stop to consider how far, under almost any imaginable circumstances, it is



consistent with that courtesy and comity, to say nothing of respect and confidence, which the constituted authorities of the different States have hitherto been accustomed to manifest in their intercourse with one another, and with the several departments of the General Government. In the view of your committee, the position here assumed, for it is unaccompanied by any reserve or qualification whatsoever, amounts in fact to nothing less than this: that both branches of the legislative department of this nation, including of course the chief executive, who must have sanctioned their proceedings, have manifestly been guilty of a dereliction of duty, a palpable abuse of power, while in the pretended exercise of their official functions.

An imputation of so grave and serious a nature is not indeed in so many words pronounced against them, but as much as this is clearly implied by the whole tenor of the document alluded to. If, according to the naked assertion of the preamble, which is wholly unaccompanied by any allowance for a possible error of judgment, the Congress of the United States have, on any occasion, been found to have exercised "*powers not conferred nor even contemplated by the parties to the federal compact,*" the inference would seem to follow, of course, for all acts of a legislative body must be supposed to have been the result of deliberation, that the outrage was perpetrated knowingly, intentionally. Indeed, the committee have been reluctantly led to the conclusion, especially when taking into view the present communication from the Legislature of South Carolina, in connection with the extraordinary measures antecedently adopted, and still maintained by a majority of the people of that State, in their Convention, and in their halls of legislation, that it was, in reality, their deliberate intention to pronounce a sentence not less serious and severe, than that before supposed, against the legislative authorities of the General Government. It is, as your committee, from a due consideration of all the circumstances of the case, are constrained to believe, principally, with a view to the confirmation or the reversal of this sentence, that the invitation is now given to Massachusetts, to unite in summoning a Convention of the States. In this connection, it may be useful to notice, very briefly, the grounds on which, not the leading politicians only, but the high functionaries in the government of South Carolina, have attempted to justify the extraordinary proceedings that have been adverted to. It has been promulgated as one of the first and fundamental principles in their new theory of the Federal Government, that not one jot or tittle of the sovereignty of any State was surrendered or compromised in any manner, at the formation of the Union. That a State has a right of course, to be its own interpreter of the laws of the General Government, and to be the judge in the last resort, of their validity. That, whenever a State, in its sovereign capacity, shall be pleased to pronounce that the Congress of the United States have, in regard to any other of their enactments, transcended the authority delegated to them by the Constitution, all such acts must thenceforth, so far at least as concerns the citizens of

such State, be considered as utterly void and ineffectual. Furthermore, it is contended that a declaration of the kind above mentioned, is not only binding upon all within the jurisdiction of the disaffected State, but conclusive also, for the time being at least, against all the authorities of the General Government. From this novel and most extravagant doctrine, it results as a consequence, that an act of the highest legislative authority of this nation, whatever may be its scope or object, or however urgent in reference either to the foreign or internal affairs of the whole people, may have been the cause of its adoption, must, when thus brought into question, remain as it were in obedience, at the commandment of a single State. In other words, that the vast and complicated machinery of the national government shall be made to stand still, until a grand Convention of twenty-four independent contending sovereignties, if so many should be pleased to assemble on the occasion, shall have considered and determined the question of its validity.

Such, in substance, appears to be the theory of reform which has recently been promulgated, and is still maintained by the constituted authorities of South Carolina; and your committee is constrained to believe that it is, with a reference to this system, and to a consummation of the very extraordinary course of procedure therein contemplated, that the proposition for a Convention of the States is now submitted to their Legislature. The committee conceive that it would be a very useless appropriation of time, especially as the whole subject matter involved in the late extraordinary proceedings of South Carolina, is already entirely familiar to the community, were they to proceed any further, on a course of reasoning, in order to demonstrate the utter fallacy and impracticability of the doctrines here adverted to; or to dwell longer in contemplating the consequences in which, should they be sustained, they must naturally and necessarily involve the peace and safety of the Union. Their tendency, it is conceived, is quite too obvious to require, or even to admit of argument or illustration. They, manifestly, go to resolve at once our present glorious system of National Government into its original elements, and would leave, not for the present generation, but for posterity, the fearful if not utterly hopeless task, of building some frail and miserable fabric upon its ruins.

In fine, your committee are unanimously of the opinion, that upon any such grounds, or for any such reasons as those which are set forth in the said *preamble and resolutions*, according to the construction thus given to them, it would be wholly inconsistent with the honor and the dignity of this Commonwealth to accede to the call of a Convention of the States, for the purposes therein specified.

But secondly, in case your committee have been so unfortunate in regard to the before mentioned particulars, as to have misinterpreted the import and intent of the communication from the Legislature of South Carolina; if, contrary to the construction now assumed, its real intention was to invite the co-operation of Mas-

sachusetts in the call of a Convention of the States, with a view to some legitimate amendment of the Constitution, in conformity with the existing provisions of the instrument, the committee are nevertheless, entirely agreed in the opinion, that there are in truth and in fact, no such causes existing, as would justify, even for such a purpose, (especially, during the present irritable state of feeling among the people of several States of the Union,) a resort to a measure so unusual and extraordinary. Unless some one or two discontented States in this Union should by reason of their pre-eminence in virtue and patriotism, be considered as justly entitled to the distinguishing appellation of "*the States of this Union*," the committee cannot assent to the position which is laid down in the sweeping language of the preamble to the resolutions from South Carolina, that there are in fact existing, *serious causes*, or any just causes whatever, whether serious or trivial, of discontent among "*the States of this Union*;" much less are the committee prepared to sanction the yet more extravagant assertion, that if discontents of any kind, or to any extent, do in fact exist, "*they have arisen from the exercise, by Congress, of powers not conferred or contemplated by the sovereign parties to the Federal Compact.*"

It is indeed true that within the period of the last two or three years one of the States of this Union has seen fit to proclaim aloud throughout the land, her displeasure on account of certain prominent measures of the General Government.

She has been pleased to assign as the cause of the discontent, that the highest legislative authority of the nation, had assumed to itself the exercise of unwarrantable, and exorbitant power; and on this ground has at length placed herself in the attitude of open defiance of the Constitution and the laws of the land.

It is not less true however, that whatever of sympathy or commiseration may have been expressed or felt by any for the errors and delusion of a much beloved, but wayward associate in the political family, not a single other State in this Union is united with her in sentiment, either as to the legal grounds of her complaint, or the propriety of the measures to which she has seen fit to resort for redress. On the contrary, in relation to both the one and the other, the voice of nearly the whole people in their primary assemblages, in their halls of legislation, and everywhere throughout the land, has been heard in a tone not of expostulation only, but of severe censure and reproof, to pronounce its decision against her.

In the opinion of your committee, a convention of the States cannot now be necessary to consider the validity of that decision, or to add any new provisions to those already existing in the Federal Compact, with the view of preventing a recurrence of similar discontents among the States in future.

It is now nearly half a century since the present admirable system of Government first came from the hands of the illustrious statesmen and patriots by whom it was framed. Its theory, conceived as it would now seem to have been, almost by the power of superhuman intelligence, has been found in experiment in its wonder-

ful adaptation to all the various and complicated concerns of this great and growing nation not only to have equalled, but greatly transcended the most sanguine hopes and expectations of the country.

In peace and in war; throughout all the trials and vicissitudes to which the nations, as well as individuals, in this imperfect state of being are necessarily subjected, its original principles, as they were at first established and understood by the people, have, to this day, remained without essential change or variation—unpolluted, undisturbed. Indeed, the members of the committee are solemnly impressed with the conviction, that next to the superintending agency of a wise and beneficent Providence, which seems from the first to have watched over the destinies of this much favored people, it is to this same system of civil government, and to the mild, but firm and undeviating manner in which its principles have, for the most part, been maintained and administered, that we are chiefly indebted for the general, nay, almost universal prosperity which is now seen and felt in every part of this wide spread nation. It is this, as they verily believe, which, under the smiles of Heaven, has been the means of elevating these States from their once confused and imbecile condition, to that distinguished station which they now occupy among the proudest and most powerful nations of the world.

In the Constitution of a government framed with such wisdom, which has been thus tried and proved, and found to have been attended with such happy results, it surely would not be the part of prudence or good policy to attempt on any light occasion, or indeed in any case but one of the most imperious and urgent necessity, a fundamental change of any kind. It is the opinion of your committee, that in the complaints lately put forth by the State of South Carolina, there is nothing, when their real causes are fairly and fully investigated, that can be supposed to amount to the presentment of an exigency of this latter description.

Nor do the committee believe that a revision of the Federal Constitution, by a Convention of the States, would at this time be useful, much less that it can be necessary, as has of late been sometimes alleged, or *pretended*, with a view to some more clear and exact definition than is to be found in the existing provisions of that instrument, in relation either to the legitimate boundaries of jurisdiction between the General and the State Governments, or to any of the powers or immunities which these high parties respectively have hitherto been accustomed to claim or enjoy.

It was not unforeseen by the illustrious framers of the federal compact, nor by the intelligent people who adopted it, that, in the very nature of things, such "*questions of disputed power*," (to use the language of the South Carolina resolutions,) would be likely to arise in the course of its operation. They were doubtless well aware also, that it was not in the power of any human wisdom or forecast, or indeed of any thing less than the intelligence which belongs alone to the Omniscient, to devise a system of government for a nation like this, that should be forever exempt from such

doubts and exceptions as the ingenuity or ambition of men might suggest, especially in times of party zeal or excitement. Differences of this kind in political opinion, and the collisions which sometimes spring from them, should be regarded as the natural, perhaps necessary incidents of all free institutions; as constituting in fact, that portion of alloy, which, by the ordination of Providence, seems to have been mingled with all our best comforts and blessings, and without which we could not have been permitted to enjoy the blessings of civil liberty, which is more precious in our estimation than all others.

But it is believed that the testimony of all history will demonstrate that such difficulties have been of less frequent occurrence, and attended with much less serious consequences in this, than in any other government partaking in any degree of the republican form, which has existed on the face of the earth. It was, at any rate, precisely with a reference to these natural and necessary consequences of the freedom of all our political institutions, that the grand conservative principle, which is found in the judiciary department, was deeply implanted in the system; that a high tribunal was appointed to stand, as it were, by the very tenure of its office, as well as by the peculiarity of its attributes in other respects, separate and distinct from all other departments of the government. That to this tribunal was confided the great business of interpreting the Constitution and the laws, and of performing the high office of arbiter, in the last resort, of all questions "*of disputed power*," that might arise in the course of their administration. It is, in the opinion of the committee, no more than a tribute justly due to the character and conduct of this distinguished tribunal, as well as to the wisdom and forecast of the illustrious statesmen who provided for its organization, to pronounce that it has hitherto fulfilled most faithfully and effectually, the great purposes of its appointment.

It must be admitted, indeed, that, in the course of a series of years, during which the system has been in operation, a few isolated instances of insubordination, not only among considerable masses of citizens, but extending even to the constituted authorities of whole States, have been known to exist, which seemed, at first, too mighty to be controlled by the mild and peaceable operation of the principle alluded to; but, happily for the peace and honor of the country, the Constitution and the laws have hitherto, in all such cases, eventually triumphed. The committee here feel a degree of pride as well as pleasure, from having an opportunity to unite their humble voice with that of a late distinguished *commentator*, who had, perhaps, as much to do, as any other mortal, now living or dead, in the original formation and subsequent administration of our present system of government, in the declaration, that, "*with few exceptions, the course of the judiciary has, hitherto, been sanctioned by the predominant sense of the nation.*"

If, in relation to this particular branch of the subject any thing further were wanting in confirmation of the opinions which are entertained by every member of the committee, they would beg leave



to invoke to their aid, and indeed, to adopt as their own, the sentiments that were once expressed by the authorities of another leading State of this Union, in a case corresponding essentially in its character, and, in fact, almost entirely analogous in its circumstances, to that which is now presented for consideration.

The committee here allude to the proceedings of the Legislature of Virginia, some thirty years ago, when a proposition was submitted to them by the Government of a neighboring State, then the largest and most influential member of the confederacy, for an amendment of the Constitution of the United States, by providing for "*the appointment of an impartial tribunal to decide disputes between the State and Federal Judiciary*;" in other words, a tribunal, in relation to which, the one now established by the Constitution should become a mere subordinate and dependent. It would be foreign from the purpose of the present inquiry, and serve only to revive the remembrance of scenes, which, for the honor of the country, should rather be permitted to pass silently to oblivion, and, if possible, be obliterated from the history of this government, were the committee to attempt a detail of the reasons, or rather, pretexts, which were urged as the grounds of this extraordinary, and at that time, wholly unprecedented proposal, on the part of the great State that has been alluded to.

It is sufficient for us to know, that it was a case in which the highest authorities of one of the States of this Union were seen in hostile array, on the very verge of open insurrection, against the judicial power of the nation; and which, but for a returning consciousness of error and delusion on the one side, and a firm, undeviating perseverance in the execution of its high duties, on the other, must inevitably have involved the country in all the complicated horrors of civil war.

But, happily for the nation, the pretensions and the project of the disaffected State received no countenance from the State of Virginia. Her response on the occasion was precisely such as might reasonably have been anticipated, from the intelligence and pure patriotism of such men as are known to have presided, at that day, in the councils of that much distinguished Commonwealth.

"It was, among other things, unanimously resolved by both branches of their Legislature, that, in their opinion, there was a tribunal already provided by the Constitution of the United States; to wit, the Supreme Court, more eminently qualified, from their habits and duties, from the mode of their selection, and from the tenure of their office, to decide the disputes aforesaid, in an enlightened and impartial manner, than any other tribunal which could be erected."

Such, to the very letter, was the magnanimous declaration of Virginia, when, by reason of an unpopular judicial decision, (in the celebrated *Olmstead case* of Pennsylvania) she was invited to co-operate in an attempt to break up the existing foundations of the judiciary department of our Government. The example thus presented to us is worthy of all praise, and of imitation; and it

surely is not of the less authority from the circumstance of being holden up to us by a member of this Union, which, whatever may at any time have been said or thought of its political character in other respects, has, it is believed, never been suspected of any deficiency of zeal, or devotedness to the cause of State rights, or the protection of its own dignity and sovereignty.

The committee will not attempt, by any further commentary of their own, to give to this precedent, additional strength or weight.

In fine, upon a mature and deliberate consideration of the whole subject submitted to them, the committee have unanimously agreed to recommend to this Legislature, the adoption of the following resolves.

For the committee,

GEORGE BLAKE.

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## RESOLVES.

*Whereas, the Governor of the State of South Carolina did, by his communication under date the fifth day of January last past, transmit to His Excellency the Governor of this Commonwealth, copies of a certain preamble, and resolutions connected therewith, recently passed by both branches of the Legislature of the said first mentioned State, with a request that the same might be laid before the Legislature of this Commonwealth; in which said preamble and resolutions, it is set forth that "serious causes of discontent do exist among the States of this Union, from the exercise by Congress, of powers not conferred or contemplated by the sovereign parties to the compact; and resolving, therefore, that it is expedient that a Convention of the States be called, as early as practicable, to consider and determine such questions of disputed power as have arisen between the State of this confederacy and the General Government."*

*And whereas, His Excellency the Governor of this Commonwealth hath, in pursuance of the said request, submitted to the consideration of this Legislature, the preamble and resolutions aforesaid: Therefore*

1. *Resolved*, by the Senate and House of Representatives of the Commonwealth of Massachusetts, in General Court assembled, That the Legislature of this Commonwealth do not recognize the existence, at this time, of any *serious* causes of discontent, among the States generally, of this Union, or in any one of them; much less can they admit, that if any such discontents do in fact exist, they have arisen from the exercise by Congress of powers not conferred or contemplated by the sovereign parties to the compact, as is asserted in the before mentioned communication from the Legislature of South Carolina. \*

2. *Resolved*, That there is already existing under the Constitution of the United States, a proper and competent tribunal, namely, the supreme court of the United States, who are invested with sufficient power and authority; who are eminently qualified, and

to whom it constitutionally belongs, to consider and determine "*the questions of disputed power*," and all other matters of controversy which are referred to in the said preamble and resolutions: Therefore

3. *Resolved*, That the Legislature of this Commonwealth do not accede to the proposition of calling a Convention of the States for the purposes therein expressed, or for any other purpose whatsoever.

4. *Resolved*, That His Excellency the Governor be requested to transmit a copy of these resolves, together with the report which accompanies them, to the President of the United States, the Governors of all the States, and to each of the Senators and Representatives of this Commonwealth in Congress.

IN SENATE, March 16, 1833.

Read twice and passed.

Sent down for concurrence.

B. T. PICKMAN, *President*.

HOUSE OF REPRESENTATIVES, March 18, 1833.

Read twice and passed in concurrence.

W. B. CALHOUN, *Speaker*.

March 18, 1833.

Approved.

LEVI LINCOLN.

A copy, Attest.

EDWARD D. BANGS,  
*Secretary of the Commonwealth.*



## REPORT

*Of the special joint committee on the subject of the resolutions of Georgia, proposing a Convention of the people to revise the Constitution of the United States.*

### COMMONWEALTH OF MASSACHUSETTS.

HOUSE OF REPRESENTATIVES, *January 16, 1833.*

*Ordered,* That the Resolutions of the Legislatures of Georgia, proposing a Convention of the people of the United States for the amendment in various respects of the Constitution, and so much of the Governor's special message as relates thereto; be referred to

Messrs. CUSHING, of Newburyport,  
SHAW, of Lanesborough,  
WHITE, of Boston,

with such as the Senate may join.

Sent up for concurrence.

L. S. CUSHING, *Clerk.*

IN SENATE, *January 17, 1833.*

Read and referred to Messrs BLAKE and WELLS, in concurrence.

CHA'S CALHOUN, *Clerk.*

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EXECUTIVE DEPARTMENT, GA. }  
*Milledgeville, Dec. 28, 1832. }*

SIR,

In conformity with a joint resolution of the General Assembly of this State, I transmit to you the accompanying Preamble and Resolutions, approved on the 22d inst.

I have the honor to be,

With great respect,

Your obedient servant,

WILSON LUMPKIN.

### IN THE HOUSE OF REPRESENTATIVES.

For as much as throughout the United States there exist many controversies growing out of the conflicting interests which have arisen among the people since the adoption of the Federal Constitution; out of the cases in which Congress claims the right to act, under constructive or implied powers; out of the disposition shown by Congress too frequently to act under assumed powers; and out of the rights of jurisdiction, either claimed or exercised, by the Supreme Court—all of which tend directly to diminish the affection of the people for their own government, to produce discontent, to repress patriotism, to excite jealousies, to engender discord, and

finally to bring about the event, of all others most deeply to be deplored, and most anxiously to be guarded against, viz: a dissolution of our happy Union, and a severance of these States into hostile communities, each regarding and acting towards each other with the bitterest enmity.

And the experience of the past having clearly proved that the Constitution of the United States needs amendment in the following particulars:

1. That the powers delegated to the General Government, and the rights reserved to the States or to the people, may be more distinctly defined.

2. That the power of coercion by the General Government over the States, and the right of a State to resist an unconstitutional act of Congress, may be determined.

3. That the principle involved in a tariff for the direct protection of domestic industry may be settled.

4. That a system of federal taxation may be established, which shall be equal in its operation upon the whole people, and in all sections of the country.

5. That the jurisdiction and process of the Supreme Court, may be clearly and unequivocally settled.

6. That a tribunal of last resort may be organized to settle disputes between the General Government and the States.

7. That the power of chartering a bank, and of granting incorporations, may be expressly given to or withheld from Congress.

8. That the practice of appropriating money for works of internal improvement, may be either sanctioned by an express delegation of power, or restrained by express inhibition.

9. That it may be prescribed what disposition shall be made of the surplus revenue, when such revenue is found to be on hand.

10. That the right to and the mode of disposition of the public lands of the United States may be settled.

11. That the election of President and Vice-President may be secured; in all cases, to the people.

12. That their tenure of office may be limited to one term.

13. That the rights of the Indians may be definitely settled.

*Be it therefore Resolved by the Senate and House of Representatives of the State of Georgia, in General Assembly met, and acting for the people thereof, That the State of Georgia, in conformity with the fifth article of the Federal Constitution, hereby makes application to the Congress of the United States, for the call of a Convention of the people, to amend the Constitution aforesaid, in the particulars herein enumerated, and in such others as the people of the other States may deem needful of amendment.*

*Resolved, further, That his excellency the Governor be, and he is hereby, requested to transmit copies of this document to the other States of the Union, and to our Senators and Representatives in Congress.*

Agreed to, 12th December, 1832.

Attest,

ASBURY HULL, *Speaker.*

ROBERT W. CARNES, *Clerk.*

## IN SENATE.

Concurred in, 20th December, 1832.

THOMAS STOCKS, *President*.

Attest,

IVERSON L. HARRIS, *Secretary*.

Approved, 22d December, 1832.

WILSON LUMPKIN, *Governor*.HOUSE OF REPRESENTATIVES, *March 18th, 1833.*

The joint select committee appointed to consider the resolutions of the Legislature of Georgia, proposing a Convention of the people of the United States for the amendment, in various respects, of the Constitution, and also so much of the Governor's special message as relates thereto, have attended to the duty assigned them, and ask leave to submit the following

## REPORT:

The Resolutions of the State of Georgia propose to the other States of the Union the call of a Convention of the people, in conformity with the provisions of the fifth article of the Constitution, for the purpose of defining and making certain that instrument in regard of certain questions of disputed power, and for the purpose of altering it in other respects, wherein it needs amendment, in the opinion of the Legislature of Georgia. In the preamble to their Resolutions, they premise that, "throughout the United States there exist many controversies, growing out of the conflicting interests which have arisen among the people since the adoption of the Federal Constitution; out of the cases in which Congress claims the right to act under constructive or implied powers; out of the disposition shown by Congress too frequently to act under assumed powers; and out of the rights of jurisdiction, either claimed or exercised by the Supreme Court,"—all of which controversies, they allege, have a tendency to produce discontent and disaffection among the citizens of the United States, and ultimately to bring about a dissolution of the Union; and upon these premises they conclude that experience has "clearly proved" the Constitution to need amendment in thirteen distinct particulars, which they proceed to set forth specifically, as the basis of their Resolutions. Your committee propose briefly to remark upon the several portions of the preamble to the Resolutions, and in so doing they will have explained the grounds of the Resolves which they offer to the consideration of the Senate and House of Representatives.

Your committee do not pretend to deny, that "controversies" exist in some parts of the Union, "growing out of the conflicting interests which have arisen among the people since the adoption of the Federal Constitution." Such controversies, and such sources of controversy, are inseparable from the very existence of political society, and belong to the practical operation of every system of government in every country. They are not such as any

modifications of the present Constitution could remove, or any prescribed form of fundamental law prevent. Of course, whatever may be the extent, nature, degree, or tendency of controversies of this description, they do not seem to your committee to afford any argument in favor of the call of a Convention.

And whatever controversies may have arisen out of "the cases in which Congress claims the right to act under constructive or implied powers," your committee conceive that still less can such cases be admitted to render the call of a Convention necessary or expedient. Prior to the time when the people of the United States adopted the Constitution, they possessed, either in themselves individually, or in their respective State Governments, all the powers of sovereignty. That Constitution consists in part of a specification of powers, whereof the people saw fit to divest themselves or the States, in order to concede them to the government of the United States; and it is manifest that, according to the settled principles of constitutional jurisprudence, the Union cannot rightly claim any powers, other than such as are bestowed upon it by the Constitution. What those powers are, and what their extent, are in themselves essentially questions of *construction*, that is, of the legal meaning and effect of the terms of the instrument. Whether it shall be construed liberally, or whether it shall be construed strictly, or whether neither liberally nor strictly, if there be any middle course, still at any rate it must be construed in some way; and the force of any grant, in respect of the powers conveyed by it, either expressly or impliedly, is and must forever continue to be a question of construction. That construction is a process of definition, dependent upon the same rules of law, philology, and common sense, which settle the construction of other instruments; and if any doubts arise thereon, the Constitution itself provides for the mode by which such doubts are to be removed, namely, by means of the Supreme Court of the United States. To assemble a Convention for the purpose of making such construction, would not only be contrary to the tenor of the Constitution itself, but would serve to defeat its own object, because every definition or explanation which a Convention should undertake to give concerning questions which now exist, would of necessity furnish the materials of new questions, just as difficult to decide as the old ones, and just as much requiring the interposition of a Convention. Your committee are of opinion that the Constitution, as it stands, is a model of clear, exact, intelligible specification and limitation, admirable for the distinctness of its language, remarkable as well for legal precision of expression, as for the profound political wisdom which characterises it; and they have no hopes that in these respects it could be improved, as a whole, by the labors of a new Convention.

Your committee, with all due respect for the Legislature of Georgia, feel bound to say they are not conscious that Congress has *frequently shewn a disposition* "to act under assumed powers"—provided the Legislature of Georgia understand by those words what alone the committee can understand by them—powers not

conferred by the Constitution. Congress acts on the people through the medium of legislation, and it cannot so act without the concurrence of the Executive; and the rules of conduct which Congress and the Executive conjointly prescribe in the form of laws, are subject to the revision of the judiciary, by whom their constitutionality, and of course their validity, is to be judged. Your committee deem this mode of redress amply sufficient in the ordinary course of affairs, to protect the people against the *actual exercise* of usurped powers; and they are wholly at a loss to perceive how a Convention could govern and control the *disposition* of any future Congress.

The supreme court, in the judgment of your committee, neither claims nor exercises "any rights of jurisdiction" not vested in it by the Constitution. They are persuaded, on the contrary, from careful observation of the judgments of that august tribunal, that it has ever manifested a becoming diffidence of its own powers, a disposition to act strictly within the prescribed boundaries of its constitutional functions, and a conscientious deference for the reserved rights of the States.

Your committee are constrained to say thus much in reference to the premises laid down by the Legislature of Georgia, because the committee cannot admit them to be sound, in any view of which they seem to be justly susceptible, as alleged inducements to the call of a Convention, or even as any genuine or adequate causes of such discontent among the people, as should menace the safety of the Union. And while the committee deny that these general considerations afford any motives to constitutional action, they equally deny that past "experience" proves the necessity of altering the Constitution in the manner proposed by the State of Georgia.

The Legislature of Georgia seeks "amendment" of the Constitution:

"First, That the powers delegated to the General Government, and the rights reserved to the States, or to the people, may be more distinctly defined."

The committee have already remarked upon this point, which is purely a matter of judicial construction, not of fundamental legislation by the agency of a Convention.

"Secondly, That the power of coercion by the General Government over the States, and the right of a State to resist an unconstitutional act of Congress, may be determined."

Your committee conceive that these points are "determined" already by the Constitution. The people of the several States have bestowed certain specified powers upon the General Government, and all the citizens of the Union, whether acting individually as men, or collectively through the intervention of the constituted authorities of the State, are alike bound to yield obedience to the General Government within the limits prescribed by the Constitution. If Congress, or the Executive, overleap those limits, the judiciary affords the means of immediate redress; and the people, in the exercise of their functions as electors, can provide new deposi-

tories of the legislative and executive power; and if these remedies fail, and the public abuse and usurpation be of adequate magnitude to warrant recurrence to ultimate means of relief, there remains the right of revolution and of armed resistance. These principles, sufficiently clear in themselves, have already been acted upon by the Legislature in their decision upon the proceedings in South Carolina, and do not require any further elucidation; and your committee will only add that this subject of amendment, like the preceding, is also matter of judicial definition, not of constitutional organization.

“Thirdly, That the principle involved in a tariff for the direct protection of domestic industry may be settled.”

Your committee have only to refer, on this point, to the opinions heretofore expressed by the Legislature upon the constitutionality of protective tariff regulations, and to add that this also is a question of definition or construction.

“Fourthly, That a system of federal taxation may be established, which shall be equal in its operation upon the whole people, and in all sections of the country.”

Your committee, knowing that Congress has power to lay and collect taxes, duties, imposts and excises, do not perceive any cause in the history of the country or the nature of the subject, for taking away that authority; and they are not aware of any useful object to be attained by subjecting this part of the Constitution to revision by a Convention.

“Fifthly, That the jurisdiction and process of the supreme court may be clearly and unequivocally settled.”

Your committee are of opinion that the jurisdiction of the supreme court, extending to all cases in law and equity arising under the Constitution, laws and treaties of the Union, and to various other classes of cases described in the Constitution, is therein defined, with comprehensive precision, so far as it can be defined by means of language. Its process is matter of legislation, within the powers of Congress, and there is no need of the action of a Convention upon that point. And although an amendment of the Constitution might grant new powers to the supreme court, or abstract from it powers which it now possesses, the committee do not perceive how its jurisdiction could be any more “clearly and unequivocally settled” by a Convention.

“Sixthly, That a tribunal of last resort may be organized to settle disputes between the General Government and the States.”

Your committee conceive such an object to be entirely impracticable; and moreover, to be quite incompatible with the principles or the healthful action of the Constitution. The authority of the United States, under the Constitution, attaches to individuals, not to States; and a Convention could neither cure nor prevent such “disputes,” unless it should totally change the whole theory of the government, and interpose the authority of the States between individuals and the Union. The great distinction between our Constitution and the fundamental system of other federal governments, is that the latter were sovereignties over sovereignties, and



that they legislated for political communities, and thus, whenever either of the members of those confederacies chose to disobey the commands of their General Government, either a civil war or a dissolution of the confederacy ensued; whereas the power of the United States acts upon private individuals, and thus holds the constitutional, as well as the physical means, to compel the obedience of the citizens of any refractory State: Your committee regard this as one of the most beautiful and essential features of that admirable charter; as the great object, in fact, which our forefathers sought to secure in substituting the present Constitution in the place of the old articles of confederation—and as among the last of its provisions, which we ought to be willing to abandon or jeopardize.

“Seventhly, That the power of chartering a bank, and of granting incorporations, may be expressly given to or withheld from Congress.”

Your committee cannot think it of any consequence now to introduce a clause into the Constitution, to the effect of expressly authorizing Congress to establish a bank or other corporation. The power of Congress is incontrovertibly settled in the point of general power, by the repeated action of Congress and of the Executive on the subject, and by adjudications of the supreme court. Of course, the power of chartering a bank is to be deemed and taken as a part of the Constitution, just as much as if it had been expressly specified. No practical object could be answered by Convention, in respect of this, unless to prohibit the establishment of a bank by Congress, which your committee cannot recommend, impressed as they are with a strong sense of the utility and importance of a national bank, to every portion of the Union.

“Eighthly, That the practice of appropriating money for works of internal improvement, may be either sanctioned by an express delegation of power, or restrained by express inhibition.”

If the Constitution were now to be framed, your committee will not deny that it might be expedient to insert in it an explicit provision upon this vexed question. They are aware that grave differences of opinion have obtained among the most distinguished statesmen of the country as to the power of Congress to make appropriations of money for objects of internal improvement, so called, within the limits of any of the States. Under the power to establish post roads, to regulate commerce, and to raise moneys to provide for the general welfare, Congress has repeatedly authorized the execution, at the charge of the United States in part or in whole, of public works of this description; and whatever questions have been, or may hereafter be raised concerning the extent of this power, your committee believe that the opinions and practice of the two Houses of Congress and the Executive, in their discussion and action upon the subject will ere long have provided a safe construction of the Constitution in this respect, as they have done in others, where doubt once existed as to the meaning of that instrument. However this may be, your committee do not think it is a matter which demands the call of a Convention; and that if the Constitution needs amendment in that particular, it

should be provided by means of Congress, under the provisions in the fifth article of the Constitution.

“Ninthly, That it may be prescribed, what disposition shall be made of the surplus revenue, when such revenue is found to be on hand.”

“Tenthly, That the right to, and the mode of disposition of the public lands of the United States, may be settled.”

Your committee are not aware that any serious constitutional difficulty exists in relation to these two subjects, which they deem to be mere questions of public policy and expediency entirely within the competency of Congress.

“Eleventhly, That the election of President and Vice-President may be secured in all cases, to the people.”

“Twelfthly, That their tenure of office may be limited to one term.”

Whatever considerations there may be favor of an amendment of the Constitution in these particulars, and your committee admit that the expediency of a change in the second of them rests upon highly plausible grounds, yet the mode of amendment through the agency of Congress, pointed out by the Constitution, seems to them to be fully competent to effect such an amendment whenever it shall be the will and desire of a decided majority of the people of the United States.

“Lastly, That the rights of the Indians may be definitely settled.”

Your committee believe this to be purely a subject of judicial construction under the Constitution, laws, and treaties of the United States; that the Supreme Court is competent to settle any questions appertaining to it which do exist, or which may hereafter exist; and that, of course, it offers no exigency requiring the call of a Convention.

In fine, the specific objects of amendment, proposed by the State of Georgia, are of two kinds:—first, things wherein the true intentment of certain clauses of the Constitution may have been deemed questionable, which your committee regard as the proper subject matter of judicial construction or definition, in the last resort of constitutional as distinguished from extra constitutional modes of procedure, and of course as not fitting objects of a Convention; and secondly, things wherein specific alterations of, or additions to the Constitution may have been deemed expedient, which your committee regard as belonging to the competency of Congress, and by no means of such vital consequence as to justify the extraordinary step of a Convention of the people of the United States.

Having thus adverted to the reasons on which the Legislature of Georgia found their proposition for the call of a Convention and also to the specific objects of amendment which they propound for investigation, your committee have only to add in conclusion, that they conceive the meeting of a Convention of the people for the purpose of revising the Constitution in these or any other respects to be a remedy required only by pressing emergencies of national exigency; and they apprehend that under any subsisting state of



public feeling, its tendency would be to create new questions of difficulty, and to augment the differences of opinion in regard to old ones, and thus to weaken rather than confirm the power of the Union. The Legislature of Georgia have alleged various subjects of fundamental law as requiring the agency of a Convention, being such as the peculiar views or position of the State of Georgia have suggested to her Legislature. It would be easy for your committee to swell the number of subjects equally suitable for the consideration of a Convention with those under discussion, derived from the views and position of this Commonwealth; and some of the latter class of subjects involve questions of public right, of national expediency, of constitutional organizations, quite as important in themselves, and quite as dear to the convictions of the people of Massachusetts as any of the former class can possibly be to the people of Georgia. But your committee are content with the Constitution in the form they have received it from their fathers, regarding it as a monument of comprehension and sagacity, which the labors of a Convention might perhaps improve in some points, but which they would be more likely to unsettle and overturn without possessing the capacity or the power to raise upon its ruins another equally noble fabric of political wisdom to supply its place. Whilst entertaining therefore, all proper respect for the opinions of the Legislature of Georgia, and while solicitous to treat that State with deference as a co-equal member of the Union, your committee, in view of the whole matter, recommend to the Legislature the adoption of the following resolves.

For the committee,

CALEB CUSHING.

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## RESOLVES.

*Whereas*, The Governor of the State of Georgia did, by his communication under date of the twenty-eighth day of December last, transmit to His Excellency the Governor of the Commonwealth, copies of a certain preamble and resolutions connected therewith, recently adopted by the Legislature of said State of Georgia, and His Excellency did, by his special message of the sixteenth of January last, communicate the same to the Legislature of this Commonwealth:—

*And whereas*, in said preamble and resolutions it is set forth that for certain reasons therein alleged, the State of Georgia doth make application to the Congress of the United States for the call of a Convention of the people, to amend the Constitution in sundry particulars, enumerated in said preamble, and in such others as the people may consider needful:

*And whereas*, the specified subjects of amendment are either matters of definition or construction merely, arising on the face

of the Constitution, as to which the meaning of the Constitution is already, or may hereafter be, satisfactorily ascertained under the Constitution, and by means provided therein, and which matters do not properly come within the functions of a Convention; or else matters of amendment suitable for the consideration of Congress, under the fifth article of the Constitution, and not of such vital moment as to require the call of a Convention: Therefore,

1. *Resolved*, That the Legislature of this Commonwealth do not concur in the proposition of the State of Georgia, inviting a Convention of the people of the United States, for the purpose of amending the Constitution.

2. *Resolved*, That His Excellency the Governor be requested to transmit a copy of these resolves, together with the report which accompanies them, to the President of the United States, to the Governors of all the States, and to each of the Senators and Representatives of this Commonwealth in Congress.

HOUSE OF REPRESENTATIVES, March 22, 1833.

Read twice and passed. Sent up for concurrence.

W. B. CALHOUN, *Speaker*.

IN SENATE, March 23, 1833.

Read twice and passed in concurrence.

B. T. PICKMAN, *President*.

March 23, 1833.

Approved.

LEVI LINCOLN.

A true copy, Attest.

EDWARD D. BANGS.

*Secretary of Commonwealth.*



## **RESOLUTIONS**

### **Of the State of Mississippi.**

The committee to which was referred the communication of the Executive, transmitting to this House a resolution of the Senate and House of Representatives of the State of Georgia, "making application to the Congress of the United States, in conformity with the fifth article of the Federal Constitution, for the call of a Convention of the people to amend the Constitution aforesaid, in the particulars therein enumerated, and in such others as the people of the other States deem needful of amendment, beg leave to

#### **REPORT:**

That, deeply impressed with the momentous importance of the subject referred to them, they have bestowed on it their most deliberate consideration. They are proud to avow their sincere and sacred reverence, which they, in common with a vast majority of their fellow citizens, entertain for the Federal Constitution, the great charter of our national liberties, our independence and union. Framed as it was originally, by a Convention of the people of the United States, and sanctioned afterwards by the people of the respective States in their highest sovereign capacity, we should, it would seem, await the existence of the most urgent and palpable necessity of amendment ere we proceed to provide for any important alteration in a system of government presented to us under such imposing circumstances. But when to these circumstances is added the recollection of the great, the good, the pure and gifted statesmen by whom it was framed, the all embracing spirit of reconciliation and patriotism in which it originated, and by which it was perfected—the signal and glorious triumphs which under it have attended the eagle of our star-spangled banner on the land and on the deep—the high and wide-spread national character which it has enabled us to attain—the unexampled rapidity of our march under its fortunate auspices to national glory, power, prosperity and happiness—the marked and all-pervading influence which it has exerted in liberalizing the forms of government throughout the civilized world, by conferring on mankind a knowledge of their rights, and a determination and courage to maintain and defend them. When to all these glorious results it is added that the paternal voice of Him who was first in war, first in peace, and still is first in the hearts of his countrymen, employed its latest accents in inculcating a deep and solemn veneration for this Constitution and the Union.

Your committee would do injustice to their feelings, were they to suppress the avowal that they seem to themselves to be treading upon holy ground, and that nothing short of the most palpable necessity could induce them to recommend the adoption of any measures which, however well designed, might ultimately endanger the existence or mar the symmetry and beauty of this most perfect monument of uninspired wisdom.

Your committee, however, cannot refrain from expressing that they believe that a wild and latitudinarian construction has been placed upon the Constitution of the United States by many in our government, and which they believe to be well calculated, by the exercise of such unlimited construction, to be productive of discontent, sectional injustice, and even oppression itself. Your committee believe that the Congress of the United States have no right to exercise any powers other than those which are expressly delegated, and those incidental powers which arise under that express grant; and would gladly see those ambiguities which are contained in that instrument, which has been justly styled the "charter of the liberties of the American people," at the proper time so amended as to set at rest those disputed powers which have agitated our happy government for a series of years; but the turbulent spirit of the times, and the numberless sectional influences which, under almost every variety of form and shape and intensity, pervade and agitate the great divisions of our country, would, in the opinion of your committee, render it imprudent to concur in the application contained in the resolution of the State of Georgia, at the present critical period of our national affairs; while the citizens of the Union are subjected to those adverse influences, it would seem more than madness to expect that calm deliberation—that mutual spirit of concession and conciliation, that broad patriotism in which alone it originated, and which should inform, direct and animate the proceedings of any body of men who may be called together to alter or amend it. Under the Constitution as it exists, we enjoy a freedom of laws, of order, of security and peace, and we enjoy it to an extent hitherto unexampled in the records of the world. *Freedom*, Americans always will possess. Her image is stamped so deeply upon our hearts, that like the form of Phidias on the shield of his Minerva, it can be obliterated by the annihilation alone of the substance on which it is impressed. But an unsuccessful attempt to render the Constitution more congenial to the wishes of those States which are most anxious for its amendment—the angry warmth and excitement which would attend the struggle, and the malignant passions it would engender, might change this peaceful freedom, (which is our pride and boast,) into a freedom of fraternal wars, of bloodshed and desolation.

If a Convention were called for the purpose of defining with more precision those parts of the Constitution which are considered indefinite, and prohibiting the exercise of those powers which being considered doubtful, have constituted the ground work of those violent party divisions which distract our country, your com-

mittee believe that it would be productive of results wholly foreign to the wishes of those who are most anxious for the call. A Convention assembled at this time, they have every reason to believe would affirm these very powers which are so obnoxious to a majority of the citizens of the southern sections of the Union. The constitutionality of a tariff of protection has been affirmed by eighteen of the twenty-four States; the larger States all being in favor of the affirmation. Now it should be recollected that the power of the smaller States is greater in Congress than it would be in a Convention of the States, called upon any plan of representation which we could reasonably expect would be adopted; under the most favorable circumstances, the co-ordinate power held by us in the Senate would be merged in the mass of the popular representation of the larger States. For a redress of the grievances therefore, which are assigned as the causes for the call, prudence would seem to dictate a reliance on the equity and patriotism of the National Legislature, and more especially a reliance on the progressive influence, the intelligence and virtue of the people of the Union.

In accordance with these suggestions, your committee would recommend the adoption of the following resolution:

*Be it resolved by the Legislature of the State of Mississippi, That this State does not conceive it expedient to concur in the resolution of the State of Georgia, "making application to the Congress of the United States for the call of a Convention of the people to amend the Federal Constitution in the particulars therein enumerated, and in such others as the people of the other States may deem needful of amendment."*

*Be it further resolved, That his excellency the Governor be requested to transmit a copy of this resolution to the Executive of the State of Georgia, and of each of the other States of the Union.*

DAVID PEMBLE,

*Speaker of the House of Representatives.*

CHARLES LYNCH,

*President of the Senate.*



**No. 292.**

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**IN ASSEMBLY,**

**April 4, 1833.**

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**TENTH ANNUAL REPORT**

**Of the Board of Managers of the Troy Savings Bank  
for the year ending the first Monday of April,  
1833.**

*To the Honorable the Legislature of the State of New-York.*

Pursuant to the provisions of the act, entitled "An act to incorporate the Troy Savings Bank," the board of managers

**REPORT:**

That from the first Monday of April last, to the first Monday of April instant, there has been received from depositors in said bank, the sum of \$46,908. And that during that time there has been withdrawn from the bank by depositors, the sum of \$52,848.73, including dividends paid, and \$305.87 have been paid for contingent expenses of the bank in the same time. That there is now deposited to the credit of the said bank, in the Bank of Troy, the sum of ..... \$72,377 50  
And in the Farmers' bank, the sum of ..... 63,650 11

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In the whole, ..... \$136,027 61  
being the amount received by the Troy Savings Bank since the commencement of the institution, and the interest which has accrued thereon after deducting the amount refunded to depositors, including dividends paid, and the amount paid for contingent expenses of the bank.

That the depositors of the said bank have received dividends at the rate of five per cent per annum, excepting the dividend made



the first Monday of October, 1829, which was at the rate of 5½ per cent per annum. And there is a surplus of interest amounting to \$4,367.79, which is carried to the credit of the profit and loss account.

All which is respectfully submitted.

TOWNSEND M'COUN,  
*President.*

J. L. LANE,  
*Accountant.*

**No. 293.**

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**IN ASSEMBLY,**

**April 5, 1833.**

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**REPORT**

**Of the Attorney-General, relative to the power of the Legislature to increase the jurisdiction of the circuit judges.**

ATTORNEY-GENERAL'S OFFICE, }  
*April 5, 1833.* }

**To the SPEAKER OF THE ASSEMBLY.**

**SIR,**

In obedience to a resolution of the Assembly, I submit herewith a report in relation to the power of the Legislature to increase the jurisdiction of the circuit judges.

I am, very respectfully,

Your obedient servant,  
**GREENE C. BRONSON.**



# REPORT.

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The Attorney-General, in obedience to the resolution of the Assembly, requiring him to report "whether, in his opinion, the powers conferred upon the circuit judges by the act of April 18th, 1882, entitled 'An act relating to the supreme and circuit courts,' are a violation of the Constitution of this State, and whether the Legislature can confer any powers upon the circuit judges in addition to those specified in the Constitution," respectfully submits the following

## REPORT:

The Constitution declares that a circuit judge "shall possess the powers of a justice of the supreme court at chambers, and in the trial of issues joined in the supreme court and in courts of oyer and terminer and jail delivery. And such equity powers may be vested in the said circuit judges, or in the county courts, or in such other subordinate courts as the Legislature may by law direct, subject to the appellate jurisdiction of the chancellor."—Art. V. sec. V. The seventh section of the same article declares, that "neither the chancellor, nor justice of the supreme court, nor circuit judges, shall hold any other office or public trust."

The act referred to in the resolution of the Assembly; (laws 1882, p. 188,) provides, that "where in any personal action, any bill of exceptions shall be taken, demurrer to evidence put in, case made, or notice of motion given for new trial on newly discovered evidence," the matter "shall in the first instance be heard and decided by the circuit judge of the circuit in which the cause was tried." It is further enacted, that "every circuit judge shall hold a court once at least every three months, for hearing arguments of the matters hereby committed to his discretion;" and that "upon such hearing, the circuit judge who holds said court shall have and exercise the same power in the cases mentioned in the first section, [bill of exceptions, demurrer to evidence, &c.] as is now possessed by the justices of the supreme court." The act then gives

an appeal to the supreme court in all cases, "after the circuit judge shall have decided the same."

These are common law powers, and such as have heretofore been exercised by the supreme court alone. A justice of that court, neither at chambers nor in the trial of issues, has ever possessed any such authority. The validity of this act consequently involves the question presented in the concluding part of the resolution—"whether the Legislature can confer any powers upon the circuit judges in addition to those specified in the Constitution?"

All the legislative power of the State having been granted to the Senate and Assembly by the first article of the Constitution, it is only necessary to inquire whether, by any subsequent clause of the Constitution, the authority of the Legislature to increase the common law jurisdiction of the circuit judges has been taken away, either directly or by necessary implication. The only provisions supposed to have a bearing on this question have already been cited, and they suggest the following considerations:

I. Whether the declaration that the circuit judges "shall possess" certain specified powers, raises any necessary implication against the authority of the Legislature to confer others.

II. Whether any such implication arises from the authority to vest equity powers in the circuit judges, in addition to those specially granted by the Constitution.

III. Whether the grant of further common law powers to the circuit judges is prohibited by the declaration that they shall hold no "other office or public trust."

In the opinion of the Attorney-General, these questions ought severally to be answered in the negative.

*First.* The office of circuit judge did not exist before the adoption of the present Constitution. It was created for the purpose of relieving the justices of the supreme court in the discharge of their chamber and circuit duties. In creating a new office, it was manifestly proper to declare the purpose for which it was instituted; in other words, to specify what powers or duties should devolve on the incumbent. But such declaration raises no necessary implication against the authority of the Legislature to confer addi-

tional powers on the officer. Had any such limitation of the power of the Legislature been intended, it is but reasonable to suppose that such intention would have been plainly manifested.

*Second.* The clause in the Constitution which follows the enumeration of the powers of the circuit judges, would have raised a decisive implication against the authority of the Legislature to increase the jurisdiction of those officers, had it related to some common law power. The declaration that the Legislature might vest a particular power in the judges, in addition to those vested by the Constitution, would have evinced an intention to limit the Legislature in relation to every other power. But this clause does not provide for common law, but for equity powers. It was not inserted for the purpose of removing any supposed restriction on the authority of the Legislature to increase the jurisdiction of the circuit judges; but for the purpose of declaring that equity powers might be vested in common law courts. The court of chancery had always been a distinct and separate forum. It was recognized in the Constitution; and without any provision to that effect, it may well be doubted whether any equity jurisdiction could have been given to common law judges. The difficulty in the way would not have been that the jurisdiction of the judges could not be enlarged, but that this particular jurisdiction could not be taken from the court of chancery. If these views are well founded, it follows that the authority to vest equity powers in the circuit judges, in addition to those specially granted by the Constitution, raises no implication against the authority of the Legislature to increase the common law jurisdiction of those officers.

*Third.* The prohibition against holding any "other office or public trust," does not relate to the power or jurisdiction pertaining to the office of circuit judge, but to the privileges which may be conferred on the person holding that office. It is not a provision against increasing the jurisdiction of the court, but that the person holding the office shall hold no other. A circuit judge cannot hold the office of justice of the peace; but the office of the judge may be so enlarged as to include all the powers of a justice of the peace.

"Office" and "public trust" are in this place deemed synonymous expressions. Both were used for more abundant caution, and for the purpose of effectually excluding the judges from every other office or public employment, of whatever description. In another article of the Constitution, designed to work a like exclusion in re-

tion to ministers of the gospel, the words are "office or place"—both meaning the same thing.

The prohibition against holding any "other office or public trust," applies as well to the chancellor and justices of the supreme court as to the circuit judges. And although the powers of the chancellor and justices are not specified in the Constitution, they were clearly defined and well understood when the Constitution, which recognizes those offices, was adopted. If the prohibition goes to the increase of jurisdiction, then no powers can be conferred on the court of chancery or the supreme court, beyond those which they respectively possessed at the time the Constitution was adopted. Yet many new powers have been conferred on both of those courts, and so far as is known, the authority of the Legislature to make such grants has never been doubted.

In relation to the circuit judges, neither the prohibition in question, nor any other provision of the Constitution, has been thought to present any obstacle in the way of increasing their powers. The Revised Statutes, which after having been prepared by eminent counsel, were much more fully considered than the laws usually passed at the annual sessions of the Legislature, have conferred various powers on the circuit judges which had never been possessed or exercised by a justice of the supreme court, either at chambers or in the trial of issues. They have been authorised to compel a person removed from office, or whose term has expired, to deliver over to his successor all the books and papers appertaining to the office.—1 R. S., 124. Circuit judges may appoint the times and places of holding circuit courts and courts of oyer and terminer. This power was before confided to the supreme court: not to one of the justices of that court.—2 R. S., 201. The circuit judges are authorised to restrain any person in possession of land which has been sold on execution from the commission of waste on the premises, a power which has never been vested either in a justice of the supreme court or in the court itself.—2 R. S., 337. The powers conferred on the circuit judges in relation to forcible entries and detainers, were never possessed by a justice of the supreme court.—2 R. S., 510. Appeals from surrogates, in matters relating to the proof of wills, may be made to a circuit judge, who is authorised to hear and decide the cause.—2 R. S., 608. Circuit judges may order a reference in suits pending in their circuits; a power never exercised by a justice of the supreme court.—2 R. S., 384.

The Attorney-General is of opinion, that the "Act relating to the supreme and circuit courts" is free from any constitutional objection, and that the Legislature can confer other powers on the circuit judges than those specified in the Constitution.

Respectfully submitted.

GREENE C. BRONSON,

*Attorney-General.*

*April 5, 1833.*





**No. 294.**

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**IN ASSEMBLY,**

**April 5, 1833.**

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**REPORT**

**Of the Treasurer, on the petition of Garret Quackenbush, referred to him by the Assembly.**

**TREASURER'S OFFICE. }**  
*Albany, April 4, 1833. }*

**The Treasurer, on the petition of Garret Quackenbush, referred to him by the Hon. the Assembly,**

**REPORTS:**

**The petitioner represents, that the taxes on lot No. 76, in Glen, Bleeker and Lansing's patent, in the county of Montgomery, "had been fully paid up to the year 1818, by Sanders Lansing, Esq. who acted as the agent of your petitioner, which will fully appear by reference to the books of the Treasurer of this State."**

**"That in February, 1821, 495 acres of said lot, No. 76, was sold by the State for taxes suffered to be due thereon previous to 1817; that your petitioner was not apprised of said sale until long after the same had taken place." The petitioner therefore prays that the Legislature will grant him relief, &c.**

**The Treasurer has examined the books of this office, and it does not appear that such payment was made into the treasury during the year 1818.**

**Respectfully submitted.**

**A. KEYSER, *Treasurer.***



**No. 296.**

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**IN ASSEMBLY,**

**April 8, 1833.**

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**REPORT**

**Of the committee on claims, on the petition of Tousant Levernway.**

Mr. Russell, from the committee on claims, to which was referred the petition of Tousant Levernway, heir at law of Francis Levernway, a Canadian refugee, praying compensation for the bounty lands to which his said father was entitled,

**REPORTED:**

The petitioner states, that in the year 1775, when Gen. Montgomery entered Canada with the American army, his said father joined said army, and in the attack upon Montreal under the command of Col. Eathan Allen, was taken a prisoner and sent to England, and detained there three years or thereabouts, and was then exchanged; that in consequence of his confinement he lost his health and died in 1779; that no compensation has been made for his services or bounty land, either to the soldier or the petitioner, to the petitioner's knowledge.

Assuming the truth of the above allegations, the petitioner does not bring his claim within the rule of law prescribed for allowing bounty lands to the Canadian and Nova-Scotia refugees; and however willing and even desirous the committee may be to aid in the performance of all and every promise which the State has made to the soldiers of the revolution, they have not thought it advisable or safe to extend by construction the engagements of the government beyond the obvious object and intent thereof. When these engagements were made, the State was deriving large revenues from various sources, which under the old confederation went into the State treasury, but which upon the adoption of the constitution in

1787, were transferred to the general government; by that constitution too the government of the United States, having acquired the funds which formerly belonged to the State, is charged with the common defence; all claims therefore resting upon equitable considerations for revolutionary services (and not coming within the engagements of the State government) the committee apprehend should be made to the government of the United States, and not to that of this State.

If the conclusions herein arrived at by the committee are correctly drawn from the facts assumed, it is obvious that the claim of the petitioner cannot be sustained. Believing they are so, the committee offer for the consideration of the House, the following resolution:

*Resolved*, That the prayer of the petitioner, Tousant Lovernway, ought not to be granted.

**IN ASSEMBLY,**

**April 8, 1833.**

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**REPORT**

**Of the select committee on the petition of the mayor and common council of the city of New-York, relative to the twelfth ward of said city.**

Mr. Ostrander, from the select committee to whom was referred the petition of the mayor and common council of the city of New-York, for the passage of a law to establish a public place, and lay out certain streets in the twelfth ward of said city of New-York,

**REPORTED:**

They have had the subject under consideration. The petitioners represent, that they have been applied to by the proprietors of land in the twelfth ward of the city of New-York, to take the necessary measures for establishing a public place between Thirty-first and Thirty-fourth streets, extending one hundred feet on each side of the Fourth avenue, and also to have a street laid out and extended from Thirtieth to Forty-second streets, between Third and Fourth avenues; and also to have a street laid out between Fourth and Fifth avenues from Twenty-third to Forty-second street; they therefore ask for the passage of a law, a draft of which was adopted in common council, authorising them to carry into effect the above proposed improvement.

Your committee are of opinion, that the improvement asked for by the petitioners, would add much to the convenience and health of that part of the city, and that it is expedient to have it done at this time, as no buildings are erected on the land proposed to be taken for the purpose above mentioned, and that the prayer of the petitioners ought to be granted, and ask leave to introduce a bill prepared for that purpose.



**IN ASSEMBLY,**

**April 9, 1833.**

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**REPORT**

**Of the committee on trade and manufactures, on the petitions in relation to the inspection of potash.**

Mr. Myers, from the committee on trade and manufactures, to which was referred the petition of the inhabitants of the counties of Chenango, Madison and Cortland, interested in the manufacture of potashes, relative to the inspection of said article,

**REPORTED:**

That the committee have given to the subject that careful examination which its importance demands.

The petitioners, among other things set forth in their memorial, say, that an unreasonable prejudice exists in the minds of some of the inspectors against an improvement made and patented to Ephraim Parce, for the manufacture of potashes. For the purpose of determining the relative purity of the potashes made on said Parce's plan, with those made in the old or usual manner, the petitioners furnished samples of each kind, accompanied by the affidavits of the manufacturers, and requested permission to have them analyzed under the direction of the committee.

In conformity to that request, the samples thus furnished, together with the affidavits of the Messrs. Tallmans, the manufacturers, and the certificate of Dr. Pulford, (Docs. No. 1 and 2, hereto annexed,) were delivered to Dr. L. C. Beck, professor of chemistry of this city, for the purpose of being examined, and the samples analyzed by him.

In his full and able report to your committee, (and which accompanies this report as Doc. No. 3,) it appears that of the sam-  
[Assem. No. 298.]



ples analyzed by him, the patent potash contained 74.21 per cent pure potash, and that manufactured on the old or usual mode, 73.89 per cent pure potash; thus showing a trifle in favor of the patent potash.

In the certificate of Dr. Pulford, before referred to, it appears that from twelve bushels of ashes manufactured on the old plan, he made 78 pounds of potash, and that from twelve bushels of the same kind of ashes, manufactured on the patent plan, he made 145 pounds of potash. That the samples thus made were delivered to Professor Hadley of Fairfield, and analyzed by him, and the patent potash found to contain considerable more alkali than that manufactured in the old mode.

For a more detailed account of the analysis and comparative purity of each kind of potash, your committee would refer to the report of Professor Beck, and also to the certificate of Professor Hadley, which also accompanies this report as Doc. No. 4.

From the result of all the experiments which have been made by Professor Beck and Hadley, it appears that the patent potash contains more real alkali than that manufactured on the old plan. And as is stated by Professor Beck, "The value of a specimen of commercial potash depends altogether upon the quantity of real alkali which it contains," and as it appears evident from the certificates and other facts which were furnished the committee, that a much greater quantity of potash is obtained from a given quantity of ashes, by manufacturing on the patent than on the old plan, your committee are of the opinion of Professor Beck, as contained in his report, "That the manufacture of potash upon this plan is a decided and important improvement."

Your committee would also state, that soon after the subject was referred to them, George Seaman, Esq. the experienced inspector of the article from the city of New-York, came personally before them, and stated in substance as follows: That he had no prejudice against the patent potash. When called on to inspect potash, did not inquire what plan it was made on, but if it was good he branded it "first sort," let it be made on what plan it would. That he believed that good potash, even better than the common average of "first sort," was made on Parce's patent mode, and that it was an important improvement.

In all that your committee have said in regard to patent potash, they refer to Parce's patent. There may be other patents of which they have no knowledge.

The petitioners also pray for an alteration in the law regulating the inspection of potash, by making another quality, to be denominated "pure potash," and which shall contain 85 per cent of alkali. But as it appears that not any of the samples which have been analyzed by Professor Beck or Hadley contained 85 per cent pure alkali, and as it is presumed that the samples were furnished from the best quality, if a superior grade was to be established, 85 per cent would be too high a standard.

But your committee, from all the information which they have been able to collect on the subject, are of opinion that any alteration in the present law is unnecessary. That it would injure the credit of our potash in the European market, by sending them a quality with which they were not acquainted, and also reduce the value of the quality now denominated "first sort," and which constitutes by far the greatest proportion of our commercial potash.

Another reason in the minds of your committee in favor of the present inspection law, and against its alteration is, that under its provisions New-York ashes have been gaining credit in the European market, and have now a preference in price over those from Canada.

Your committee have not been able to learn that any complaint is made of the inspection in the city of New-York, and as it appears from the returns of the different inspectors for the last three years, that most of the ashes, from some cause, are fast finding their way to that city for inspection, and as the manufacturer or merchant can always have his choice of inspectors, your committee are of the opinion that the evil complained of by the petitioners can be remedied without legislative aid.

Sensible of the importance of maintaining as much uniformity as possible in the law regulating the inspection of an article forming so large an amount in the exports of our State as that of pot and pearl ashes. And in view of all the facts which your committee have been able to collect, they have come to the conclusion that it is inexpedient to make any alteration in the law at this time.



## DOCUMENTS.

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### No. 1.

#### *Affidavit of the Messrs. Tallman.*

STATE OF NEW-YORK, }  
Onondaga county. } ss.

William S. Tallman and James C. Tallman, of the town of Manlius, in said county of Onondaga, being duly sworn, depose and say, each for himself, that they have been engaged for a number of years in the manufacture of potashes, and that they have this day delivered to Dr. S. Pulford, of said town of Manlius, three samples of potashes in a box, which samples of potashes are marked and labelled No. 1, No. 2 and No. 3, which were manufactured by these deponents this winter in the ashery of Messrs. Neely and Sherwood, of said town of Manlius; and these deponents further say, that the sample marked No. 1, was made on the old or common way of manufacturing potashes, without adding or using salt in any manner in the operation, and that the sample marked No. 2, was made on the lengthy specifications of Parce's patent, and that the sample marked No. 3, was made on the "abridged specifications of Parce's patent for leaching ashes and making potash," which is the usual manner of working on said patent; and further these deponents say not.

WILLIAM S. TALLMAN,  
JAMES C. TALLMAN.

Sworn to and subscribed before me, }  
this 2d day of February, 1833. }  
GEORGE N. TAYLOR, J. P.

I hereby certify that the above box was delivered to Dr. L. C. Beck, professor of chemistry, unopened, at the request of the hon. Mr. Myers, chairman of the committee on trade and manufactures, in the Assembly.

SCHUYLER PULFORD.

February 12, 1833.

## No. 2.

*Certificate of Dr. Pulford.*

I hereby certify, that the samples which I furnished professor J. Hadley for analysis in September, 1832, were as follows: I had twelve bushels of ashes worked on Parce's patent plan, from which I obtained one hundred and forty-five pounds of potash, which he calls No. 1, which contained, as he certifies, 87.16 per cent of alkali; then I had twelve bushels of the same kind of ashes worked the old way, which yielded seventy-eight pounds of potash, which he calls No. 2, and found it contained 76.63 per cent alkali.

SCHUYLER PULFORD.

*Manlius, Dec. 10, 1832.*

## No. 3.

*To the Hon M. Myers, chairman of the committee on trade and manufactures, Assembly of New-York.*

SIR,

Enclosed is my report on the specimens of potash submitted to me for examination, together with a few observations upon the peculiar mode of manufacture which has given rise to this inquiry.

I have the honor to be, yours, &c.

LEWIS C. BECK.

*Albany, March 23d, 1833.*

## REPORT.

The following investigation was instituted for the purpose of determining the relative purity of potash manufactured upon the new plan, (commonly called Pearce's patent,) and that made in the ordinary way. Three specimens were delivered to me by Dr. Pulford, marked 1, 2, and 3, and manufactured by Messrs. Tallmans, in the modes specified in their affidavit hereto annexed. (No. 1.) As the exact process was here stated, and as there was no doubt that these were the specimens thus prepared, it presented a good opportunity of comparing the two methods of manufacture. I selected Nos. 1 and 3 for this purpose, as the latter was said to have been made upon the plan now almost universally pursued, by those who had adopted this patent.

The process which I employed in the analysis of these specimens was, in the main, similar to that detailed in the report which I made in April last, to the Hon. William Seymour, then chairman of the committee on trade and manufactures; and it will not therefore, be necessary for me to repeat it here. I should state, however, that as the subject is one of much importance, the experiments were in most cases repeated, and the mean result ascer-

tained. I selected fragments from different parts of the same specimen, in order to ascertain the average purity of the whole. And as the chief object was to compare the results of the two modes of manufacture, I was careful to make use of equal weights of each specimen, and in all cases to employ similar processes:

Before stating the results of my examination, it may be proper to mention, that what is ordinarily called *pure potash*, is, in fact, a combination of the real alkali with a portion of water, constituting what is termed by chemists, *hydrate of potash*. This portion of water it is not easy to dislodge. Now when potash in this form is exposed to the air, it absorbs from it not only an additional quantity of water, but also a portion of carbonic acid, by the last of which it is converted into a carbonate of potash. But the value of a specimen of commercial potash depends altogether upon the quantity of real alkali which it contains. The water and carbonic acid, though not ordinarily considered as impurities, increase the weight without adding any thing to the saturating power of any given specimen. This is an important consideration in estimating the value of potash, and points out the process of determining the amount of pure potash as the only one which can be relied on.

The following table will exhibit the constituents of the two specimens:

<i>No. 1, manufactured upon the old plan, as stated in the certificate.</i>		<i>No. 3, manufactured upon the plan proposed by Mr. Pearce, as stated in certificate.</i>	
Insoluble matter, . . . . .	1.66	Insoluble matter, . . . . .	2.50
Sulphate of potash, . . . .	12.50	Sulphate of potash, . . . .	10.20
Chloride of potassium, . .	6.95	Chloride of potassium &	
Carbonic acid, . . . . .	5.00	sodium, . . . . .	11.09
Pure potash, (hydrate,).	73.89	Carbonic acid, . . . . .	2.00
		Pure potash, (hydrate,).	74.21
	<u>100.00</u>		<u>100.00</u>

From this statement it will be observed that No. 3 contains a larger amount of pure potash than No. 1, although the amount of what are ordinarily considered impurities is a trifle greater. It may also be stated that by a certificate of Professor Hadley, it appears that he found in two specimens of potash which he examined—the one made according to the ordinary method, and the other according to Pearce's plan—the proportion of pure potash greatly in favor of the latter.\* And of the specimens which I analyzed last year, that which yielded the largest amount of alkali, was said to have been manufactured in the same way. It cannot be doubted, therefore, that according to our present standard, these should

\* Dr. Hadley's results differ considerably from those above stated; but he operated on different specimens, and I think by the process which he adopted, he would be likely to estimate a portion of what I call chloride of potassium and sodium, as pure potash. If this is the case, the difference between us will be much less. For 11.09, the amount of chloride of potassium and sodium in No. 3, is equivalent to about 9 hydrate of potash, which added to 74.21=83.21. So also 6.95 chloride of potassium in No. 1, is equivalent to 5.2 hydrate of potash, which added to 73.89=79.09.

be considered "first sort" specimens. And so long as our standard remains as it now is, potash of this degree of purity must hold that rank in market.

I will now state briefly what I consider to be the advantages and disadvantages of Pearce's process.

The first advantage is a great increase in the amount of potash obtained from the ashes. I was not aware of the importance of this until I examined the certificate of Dr. Pulford, (No. 2.) From this it appears that 12 bushels of ashes yielded upon the old plan, 78 pounds of potash, while the same quantity of ashes upon the patent plan yielded 145 pounds. Admitting the specimens to be of equal purity, here is a gain of nearly 100 per cent in favor of the new plan. This important fact rests upon the authority to which I have referred, and is confirmed by the positive assurances of several respectable manufacturers with whom I have conferred.—There is said also to be a great saving of time in performing the process.

These advantages are of course derived from the use of small leach tubs, and the employment of hot, instead of cold water, by which the alkali is more completely as well as more speedily dissolved.

Another benefit resulting from this process depends upon the mode in which lime is mixed with the ashes, in alternate layers. It is well known that the addition of lime to the ashes renders the alkali more pure or caustic, by combining with the carbonic and sulphuric acids, which wood ashes always contains. In the ordinary method the lime is only placed in the bottom of a large tub, but in this it is distributed throughout the whole mass of ashes, and thus its action is rendered more efficient. I should repeat a remark formerly made, that the addition of quick lime in ever so large a quantity to the *ashes*, can do no injury to the potash; on the contrary, it increases its purity in the manner that I have just explained. For both the lime, and the carbonate formed during the process, are very sparingly soluble in water. The case, however is different, as must readily be observed, when lime is added during the boiling of the ley; it then is positively a fraudulent operation, because the lime is mixed with the potash, and sold at the same price, unless its presence is detected by the inspector.

The principles just adverted to will explain the reason why, in the specimen of patent potash, the amount of pure alkali is greater, while that of carbonated alkali is less than in the other; and also why the proportion of sulphate of potash, (called *nitre* by the manufacturers,) is less in the former than the latter. The lime being more thoroughly incorporated with the ashes, performs its office with more effect.

But there is one part of this process which should be more particularly noticed, and the benefit of which is not so apparent. I refer, of course, to the use of common salt. In the specimen which I analyzed, there was upwards of 11 per cent of chloride of sodium and potassium, or nearly 5 per cent more than in the other, to which no salt was added during the process. Whatever may be

said in favor of the use of this substance in facilitating the "melting" of the potash, it is certain that its addition must detract from its purity. It is not necessary to advert to the chemical changes which are effected by the mixture of salt with the potash. But it is well known that it is very soluble in water, and that it must pass through the leach and be mixed with the potash in nearly the same proportion that it is added; and thus the consumer is made to pay the same price for the salt that he does for the potash. The views which I submitted concerning the effects of this substance in my former report I have no reason to change; but at the time that was made, I was not aware of the extent to which it was employed. If any reliance is to be placed upon the statements of the manufacturers with whom I have conferred, the employment of salt is very general in what is called the old plan. If this is the case, the objection which has been urged against the patent potash will equally apply to the other. Certain it is, that I have not found so large a proportion of pure alkali in any of the specimens which I have examined, as is contained in those said to have been made upon the patent plan.

Now I am far from believing that the employment of salt is either necessary or useful, and in my opinion a much purer article might be obtained without its addition; and if it was made the interest of the manufacturer to prepare potash of the greatest purity, I am satisfied it would be dispensed with on the new as well as on the old plan. But as at present the only object is to manufacture an article which will pass as 'first sort,' the case is somewhat different. And, as I have before said, the specimens manufactured according to Pearce's mode, which I have examined, equal, if they do not exceed in purity, those ordinarily ranked as such. Under these circumstances, from a review of my analyses and of those of professor Hadley, from the general principles of solution and chemical decomposition, and especially from the facts which have been stated with regard to the increased amount of alkali obtained, I am forced to the conclusion that the manufacture of potash upon this plan is a decided and important improvement. But its continuance as such must depend in a great degree upon the honesty of the manufacturer and the vigilance and skill of the inspector.

I need only add, that in all that has been said concerning "patent potash," I have referred to the abridgement of the specifications of Pearce's patent. Under this general name, there may, for aught I know, be other kinds in market, to which the foregoing remarks will not apply.



**No. 4.*****Certificate of Professor Hadley.*****DR. PULFORD,**

Dear sir—I have carefully examined the samples of potash which you put into my hands, and from the average results of a number of experiments, find that No. 1 yields 73.75 per cent real alkali, No. 2 yields 64.5 per cent real alkali. The neutralizing power of No. 1 is to that of No. 2 as 73.75 to 64.5, and their fitness for any of the purposes to which potash is applied, and of course the value of each respectively, is in the same proportion.

Yours, &amp;c.

**JAMES HADLEY.*****Fairfield, Oct. 19, 1832.***

**No. 299.**

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**IN ASSEMBLY,**

**April 10, 1833.**

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**COMMUNICATION**

**From the Comptroller, in relation to giving deeds  
for lands sold for taxes when the Comptroller's  
certificate is lost.**

**COMPTROLLER'S OFFICE, }**  
*Albany, April 10, 1833. }*

**To W. BAKER,**  
*Speaker of the Assembly.*

**SIR—**

I beg leave herewith to present to the Assembly, a communication on the subject of giving deeds, and refunding money from the treasury, in cases where the certificate given by the Comptroller on the sale of lands for taxes, has been lost.

I have the honor to be,

With great respect,

Your ob't servant,

**A. C. FLAGG.**



## COMMUNICATION.

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COMPTROLLER'S OFFICE, }  
*Albany, April 10, 1833.* }

*To the Assembly of the State of New-York.*

The Comptroller considers it his duty to make the following communication to the Assembly, in relation to the application of Lucas Elmendorf; which has already been reported upon by the Comptroller, and also by the committee on claims.

The point to be decided in this case is, whether the Comptroller shall give a deed to Mr. Elmendorf for lands purchased by him at a tax sale, without the production of the original certificate given by the Comptroller to the purchaser.

At the close of a tax sale, and after the payment of the purchase money, the 65th section declares that "the Comptroller shall give to the purchaser of any such lands, a certificate in writing, describing the lands purchased, the sum paid, and the time when the purchaser will be entitled to a deed." These certificates are transferred by an endorsement of the name of the purchaser upon the back of the certificate; and the uniform practice of this office has been, to give the Comptroller's deed to the person who produces the certificate endorsed as before stated, or to such other person as the holder of the certificate may designate: and the original certificate, with the endorsement of the purchaser, is filed in this office as a voucher for giving the deed to a different person than the one who appears by the sales book, to have been the purchaser.

In this way the custom of the office has made the Comptroller's certificates for tax sales, to all practicable purposes, negotiable: and this usage is so well understood by the whole community, that these certificates are transferred by a simple endorsement, in the same manner as negotiable notes are passed from one person to

another. In many cases, the person who bids at the tax sale is the agent of another; and the person really interested pays the purchase money and receives no other security for his advances than the delivery into his possession of the original certificates of the Comptroller, with the name of the bidder endorsed upon the back of each. If the Comptroller should establish the precedent of giving deeds according to the entry in the sales book, and without the production of the certificate, it would destroy at once the character for security which every person now attaches to the possession of the Comptroller's certificate.

Some estimate of the importance of this subject and of the extent of the interests which may be affected by any change in the established rules of the Comptroller's office in relation to the character of certificates for tax sales, may be formed from the fact, that about fifteen thousand certificates are issued by the Comptroller at each tax sale. There have been four general tax sales, to wit: in 1815, 1821, 1826, and 1830: and it is presumed that between fifty and sixty thousand certificates have been issued for lands sold at the four periods above named.

In the transaction of all this business, for a period of seventeen years, it is not known to any person in the office that a Comptroller's deed has ever been given without the production of the original certificate, or a special act of the Legislature obtained.

The committee on claims say in their report, that the entry on the Comptroller's books is more controlling, as evidence of the purchaser's claim to a deed, than the certificate given by the Comptroller. And the report adds—"The certificate required to be given is for the security of the purchaser, and furnishes him with the evidence of his right to the land. This certificate is not negotiable, but it may be transferred for good consideration, and the holder or assignee thereby becomes entitled in equity to a conveyance from the State; when no redemption has been made, the lands are to be conveyed to the purchaser by the Comptroller, unless he has evidence that the *right* of the purchaser has been transferred; in the absence of evidence no such transfer will be presumed, but the business of the office will be conducted upon the hypothesis that no transfer has been made. If in fact the certificate has been transferred, it is throwing upon the holder or assignee no greater burthen than is cast upon other individuals who become

assignees of choses in action, who are required to give notice of the assignment or transfer. Their rights are then effectually secured. But suppose the land redeemed, the certificates then become ineffectual, so far as the land is concerned; but the money paid into the treasury remains there for him whose right it is to receive, and the same rule of practice would enable the owner of the certificate to obtain money which would secure to him the land, in case no redemption had been made."

In answer to this part of the report of the committee, it may be remarked, in the first place, that although the certificates of the Comptroller may not be technically negotiable, yet the practice of the office has made them, to all intents and purposes, negotiable; and they are so considered by all persons who are familiar with the transactions connected with the sales of lands for taxes.

2. The committee say that the Comptroller is to give a deed to the purchaser, "unless he has evidence that the *right* of the purchaser has been transferred."

The practice of this office, however, is, and has been, to require evidence of the purchaser that he has *not* transferred his right. And this evidence is furnished by the production of the certificate without an endorsement. The turning point in this whole matter is, whether the Comptroller shall accept any other proof than the certificate itself, that the original purchaser has *not* transferred his right. The applicant himself concedes that he is to furnish the proof that there has been no transfer, and he furnishes the best evidence next to the certificate itself. If there was a general provision in the statute relating to the assessment and collection of taxes, that the Comptroller, on the production of satisfactory proof that a certificate was lost, should execute a deed to the purchaser, there would be no difficulty in the case of Judge Elmendorf. And the existence of such a provision would relieve the question from embarrassment, because the statute itself would be sufficient notice to all concerned, of the contingencies under which their purchases were made.

3. In case of redemption, the committee say that the "certificates then become ineffectual, so far as the land is concerned; but the money paid into the treasury remains there for him whose right it is to receive, and the same rule of practice would enable

the owner of the certificate to obtain the money which would secure to him the land."

The rule of this office is to require the same evidence for paying redemption money out of the treasury, as is required for giving a deed. The purchaser of lands at the tax sales, when those lands are redeemed, is required to produce the original certificate before he can draw the money from the treasury. And if the certificate has been transferred, the holder produces the certificate, which is received as satisfactory proof that he is entitled to the money, and in all cases, the original certificate is attached to the warrant drawn upon the treasury to refund to the purchaser or his assignee the moneys paid to redeem lands sold for taxes.

The committee conclude that the law now furnishes an ample remedy for the claimant; because, if the Comptroller refuses to give the deed, the claimant can compel him by an application to the supreme court. This, however, would be attended with expense; and in the opinion of the Comptroller it would be better to grant relief in the few cases in which certificates may be lost, by special acts of the Legislature, than to unsettle the practice which has so long governed the granting of deeds by the Comptroller, and which is universally understood by all the parties interested in these transactions.

If the Comptroller should give a deed without the production of the certificate, and relying upon the entry in the sales book, might not the person who should hold the certificate duly assigned, apply to the supreme court, and obtain a mandamus to compel the Comptroller to execute a deed, in fulfilment of his promise in the certificate?

If the Legislature directs a grant to a person, other than the one who is equitably entitled to it, the power of redressing the injury is in the same body. But not so with the Comptroller or the supreme court.

If in the opinion of the Legislature the rule which has been adopted in the Comptroller's office, and adhered to for so many years, in relation to granting deeds, is too rigid, and that a true construction of the law requires a different rule, it would be satisfactory to the Comptroller to have a declaratory law on the sub-

ject. If it is considered proper that the Comptroller shall grant deeds and pay redemption money on receiving proof of the loss of a certificate, it is desirable that a general law may be passed, saying so in distinct terms.

**All which is respectfully submitted.**

**A. C. FLAGG.**





**No. 300.**

**IN ASSEMBLY,**

**April 10, 1833.**

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**REPORT**

**Of the Attorney-General, concerning the power of  
the Legislature in providing for vacancies in the  
office of justice of the peace.**

**ATTORNEY-GENERAL'S OFFICE, }**  
***April 10, 1833.* }**

**To the SPEAKER OF THE ASSEMBLY.**

**SIR,**

**In pursuance of a resolution of the Assembly, I submit here-  
with a report, concerning the power of the Legislature in providing  
for vacancies in the office of justice of the peace.**

**Your obedient servant,  
GREENE C. BRONSON.**



# REPORT.

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The Attorney-General, in obedience to the resolution of the Assembly, referring to him the petition of the inhabitants of the town of Broome, and requiring "his opinion whether any provision can be made by law to supply vacancies occurring in the office of justice of the peace for towns, either for the unexpired term of such office, or until the next annual election in such town," respectfully submits the following

## REPORT:

The petitioners represent that one of the justices of the peace of the town of Broome has removed, and his office become vacant, since the last annual town-meeting: And they pray that the law may be so amended that the vacancy can be filled by a special town-meeting, or otherwise. How much of the term is yet unexpired, the petitioners do not state.

All vacancies in the office of justice of the peace, except those occurring during the last year of the term, may be supplied at the next annual town-meeting.—1 R. S. 128, sec. 8. 3 R. S. append. 101. The exception of vacancies occurring during the last year of the term, was made at a period when justices were chosen at the general election in November, and as less than two months after the election would elapse before the term would expire, it was not deemed expedient to fill the place. But since a change has been made in the time of electing justices, such vacancies may continue for eight or ten months after the town-meetings at which the place might have been supplied. It is respectfully suggested that so much of the latter clause of the eighth section above referred to as relates to the office of justice of the peace ought to be repealed. This suggestion involves no constitutional difficulty, and should it be adopted, all vacancies in the office existing at the time of the annual town-meeting may then be supplied.

But as no provision has been made for supplying vacancies in the office by appointment or special town-meetings, some of the

towns will occasionally be deficient in the number of their justices for six, eight and even twelve months. This presents the questions involved in the resolution of the Assembly:

*First*—Whether provision can be made by law for filling vacancies by appointment or special town-meetings; and,

*Second*—Whether the person thus appointed or elected can be authorised to hold for the residue of the unexpired term, or only until the next annual town-meeting.

By the Constitution, justices of the peace are to hold their offices for four years.—Art. IV. sec. VII. The amendment of that section is in the following words: “That the people of this State, in their several towns, shall, at their annual election, and in such manner as the Legislature shall direct, elect by ballot their justices of the peace; and the justices so elected in any town, shall immediately thereafter meet together, and in presence of the supervisor and town-clerk of the said town, be divided by lot into four classes of one in each class, and be numbered one, two, three and four; and the office of number one shall expire at the end of the first year, of number two at the end of the second year, of number three at the end of the third year, and of number four at the end of the fourth year, in order that one justice may thereafter be annually elected.”

The Attorney-General entertains no doubt that the Legislature can authorise the filling of a vacancy in the office of justice of the peace, either by appointment, special town-meeting, or in any other mode which shall be deemed proper: and that the person thus appointed or elected, may be empowered to hold the office for the whole of the unexpired term, although one or more annual town-meetings may intervene before its termination. It is a case not provided for by the Constitution; and consequently as fully within the power of the Legislature as though that instrument had said nothing about the mode of conferring the office of justice of the peace.

So far as relates to the first branch of the subject—the power of the Legislature to prescribe the mode of filling vacancies—this question has been settled by the Legislature, and has been acted upon in a number of instances. The Constitution provides that sheriffs and clerks of counties, including the register of the city

and county of New-York, shall be chosen by the electors of their respective counties.—Art. IV. sec. VIII. The Governor has been authorised to fill vacancies in those offices.—1 R. S. 124, sec. 49. 3 R. S. append. 98, sec. 2. This power has been exercised by the appointment of a register of the city and county of New-York; the office having become vacant by the death of the incumbent. It was also exercised by the appointment of a sheriff of the county of Genesee; the office having become vacant in consequence of the neglect of the incumbent to renew his security, pursuant to law. It is understood that the power has been exercised in other cases.

The Secretary of State, Comptroller, &c. are appointed by the Legislature.—Const. art. IV. sec. VI. The Governor has been authorised to fill certain vacancies in those offices.—1 R. S. 123, sec. 43. The Constitution provides that a great number of officers shall be appointed by the Governor and Senate. Vacancies in those offices may, with few exceptions, be supplied by the Governor.—1 R. S. 123, sec. 42.

Whether a person appointed or elected at a special town-meeting to supply a vacancy in the office of justice of the peace, should be authorised to hold for the whole of the unexpired term, or only until the next annual town-meeting, is a question of expediency only. The power of the Legislature seems as unquestionable in relation to the whole, as it does in relation to a part of the unexpired term. Both cases depend alike upon the fact, that the Constitution has made no provision whatever on the subject of vacancies. A careful examination of the clause will prove the justice of this remark. If divested of every thing foreign to the present inquiry, it will be seen that the Constitution has only provided for *an original or first election of four justices* in each town; and for such a classification of the persons elected, in relation to the length of their respective terms of holding, that "*one justice may thereafter be annually elected,*" as the terms of the different classes expire. The first branch of the clause—that the people shall at their annual election, elect their justices of the peace—applies only to the original or first election of four justices. It is immediately followed by a provision that they shall be divided into four classes, so that the office of one justice will expire annually. This is inapplicable to any subsequent election. The last branch of the clause only provides for supplying the places of those whose regular terms will expire. There is nothing in the Constitution looking

beyond the original election of four justices for each town, and the regular supply of their places as their terms of holding severally expire.

The Constitution having made no provision whatever on the subject of vacancies occurring by the death, resignation or removal of the incumbent, it follows that those cases are entirely within the power of the Legislature; and that as well for the whole as for any part of the unexpired term.

Respectfully submitted.

GREENE C. BRONSON,

*Attorney-General.*

*April 10, 1833.*

**IN ASSEMBLY,**

**April 10, 1833.**

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**REPORT**

**Of the select committee on the petition of inhabitants of the town of Steuben, Oneida county, for leave to levy a tax on said town to build a town-house.**

**Mr. I. C. Baker, from the select committee to whom was referred the petition of the inhabitants of the town of Steuben, in the county of Oneida, praying for the passage of a law authorising a tax to be levied on said town, for the purpose of building or purchasing a town-house,**

**REPORTED:**

**That by a certificate of the town clerk of said town, accompanying said petition, at the late annual town-meeting in said town, the following votes or resolutions were taken, viz:**

**“Voted, That a committee of five be appointed with instructions to petition to the Legislature for the grant of a bill for the inhabitants of this town to buy or build a town-house, and that said committee report to the next annual town-meeting what they shall have done.**

**“Voted, That William Francis, Benjamin Smith, D. M. Crowell, Russell Fuller and James Bacon be the said committee.”**

**That said committee have accordingly presented their petition praying for the passage of such a law; and from the examination your committee have given the subject, and from their knowledge of the situation of said town, and as it is a matter which alone concerns them, your committee see no reason why the prayer of the petitioners should not be granted, and have directed their chairman to ask leave to introduce a bill accordingly.**





**No. 303.**

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**IN ASSEMBLY,**

**April 11, 1833.**

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**REPORT**

**Of the Comptroller, relative to the sums received for fees, and paid to clerks of the supreme court, under the act of 1810.**

**COMPTROLLER'S OFFICE. }**  
**Albany, April 10, 1833. }**

**To W. BAKER,**  
***Speaker of the Assembly,***

**SIR,**

Herewith is presented an answer to the resolution of the Assembly of the 9th inst. on the subject of fees of the clerks of the supreme court.

**Respectfully, your ob't serv't.**

**A. C. FLAGG.**



## REPORT.

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COMPTROLLER'S OFFICE, }  
*Albany, April 10, 1833.* }

*To the Assembly :*

The Comptroller, in answer to the resolution of the Assembly of the 9th inst. requiring him "to report a statement of the sums received into the treasury of this State, under the act concerning the clerks of the supreme court of this State, and for other purposes, passed April 6, 1810, and the act amending the same, and also of the sums paid out under the said act, to the clerks of the supreme court, for their salaries and clerk hire," presents the following statement taken from the books of this office, to wit:

*Statement of receipts into the treasury for fees of the clerks of the supreme court, and of payments out of the treasury for their salaries, clerk hire and office expenses, from 1st June, 1810; to 9th April, 1833.*

	Fees.	Clerk hire and ex- penses.
From 1 June to 31 Dec. 1810,.....	\$3,137 63	\$5,550 00
1 Jan. to " 1811,.....	8,157 17	11,100 00
" " 1812,.....	5,623 95	11,100 00
" " 1813,.....	22,627 00	11,100 00
" " 1814,.....	9,296 07	11,100 00
" " 1815,.....	16,007 45	11,100 00
" " 1816,.....	14,321 86	11,350 00
" " 1817,.....	23,676 40	11,600 00
" " 1818,.....	26,786 43	11,600 00
" to 30 30 Nov. 1819,.....	16,466 00	8,700 00
1 Dec. 1819, to " 1820,.....	18,523 27	10,766 67
" 1820, " 1821,.....	11,681 34	4,665 00
" 1821, " 1822,.....	8,016 47	
" 1822, " 1823,.....	4,385 36	
" 1823, " 1824,.....	1,087 70	
" 1824, " 1825,.....	1,617 10	
" 1825, " 1826,.....	1,332 14	
" 1826, " 1827,.....	1,033 96	
" 1827, " 1828,.....	782 77	
" 1828, " 1829,.....	281 55	
" 1829, " 1830,.....	7 49	
" 1830, to 30 Sept. 1831,.	662 40	
1 Oct. 1831, " 1832,.	89 80	
" 1832, to 9 April, 1833,.	0 00	
	<b>\$195,607 31</b>	<b>\$119,132 35</b>

A. C. FLAGG.  
Comptroller.

**No. 304.**

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**IN ASSEMBLY,**

**April 11, 1833.**

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**REPORT**

**Of the Secretary of State, on a bill entitled "An act relative to the distribution of the Revised Statutes."**

**STATE OF NEW-YORK, }  
SECRETARY'S OFFICE. }**

*April 11, 1833.*

*To the Speaker of the Assembly.*

**SIR:—**

I have the honor to transmit a report on the bill entitled "An act relative to the distribution of the Revised Statutes," referred to me by a resolution of the Assembly.

I am, very respectfully,

Your ob't servant,

**JOHN A. DIX.**



# REPORT.

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STATE OF NEW-YORK, }  
SECRETARY'S OFFICE, }

April 11, 1833.

*To the Assembly.*

The Secretary of State, to whom was referred the bill entitled "An act relative to the distribution of the Revised Statutes," has the honor to submit the following

## REPORT:

The bill referred directs the Secretary of State "to furnish one copy of the Revised Statutes of this State to each member of the Senate and Assembly who has not already received a copy."

By the 20th section of the act of the 10th of December, 1828, Laws of New-York, 52d session, chapter 20, the Secretary of State was required to retain 1,500 copies of the Revised Statutes to be distributed in the manner pointed out by that section. Of the whole number of copies thus appropriated only 75 remain, and these are liable to be annually reduced in number as new towns are erected, the clerk of each being entitled to one copy under the provisions of the section referred to. Since the passage of the act of the 10th December, 1828, the erection of new towns has been, in number as follows:

In 1829, .....	18
" 1830, .....	13
" 1831, .....	13
" 1832, .....	10

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54

Making an average of more than thirteen per annum. According to this rate of increase the whole number of revised Statutes applicable to the supply of new towns would be exhausted in less than six years.



By the 31st section of the same act the Secretary of State was required to sell the remaining copies of the Revised Statutes not otherwise appropriated "for the benefit of the people of this State," at a price not exceeding ten dollars for each set, and at such places as he should direct; and he was authorised to allow a commission not exceeding five per cent, to the agents employed by him for the purpose. Under the provisions of this section the whole number remaining in the hands of the Secretary, not appropriated to specific objects, were sold previous to the 14th day of January last, with the exception of 125 copies, which were received by the present Secretary from his predecessor. Of these copies 42 have been sold since the 14th of January. Only 83 copies therefore remain on hand, to be sold under the 31st section of the act referred to. In consequence of the rapid diminution of the number remaining on hand, it was in contemplation, both of the present Secretary of State and of his predecessor, to make a communication to the Legislature on the subject; and the former has, during the last two weeks, deemed it proper to discontinue sales through the agency of booksellers. The 31st section of the act under which sales have been made, render it obligatory on him to sell without reserve all the copies not otherwise appropriated; but under the discretion given to him to designate the place of sale, he has determined to sell them only at his office to individual applicants, and to discontinue wholly further sales by agents.

Of the copies transmitted to the treasurers of counties the whole number has been accounted for with the exception of 33. Of these it is understood that several copies have already been sold; and it is at least doubtful whether any of them will be returned.

On the 16th March, 1832, a concurrent resolution was adopted by both branches of the Legislature directing the Secretary of State "to deliver to the clerks of the Senate and Assembly a number of copies of the Revised Statutes equal to the whole number of members elected to each House, for the use of the members during the session of the Legislature, under such rules and regulations as shall be prescribed by the presiding officers of said Houses."

Under this resolution the Senate has been furnished with 32 copies; but as no application has been made for those which were designed for the use of the Assembly, and as the provisions of the

31st section of the act of 10th December, 1828, by which the Secretary of State was directed to sell, "for the benefit of the people of this State," all the copies not otherwise disposed of by that act, remain unrepealed, he has not considered himself at liberty to refuse to sell a copy when application has been made for it.

It will therefore be apparent, that only 83 copies of the Revised Statutes in the hands of the Secretary of State will be applicable to the object contemplated by the bill referred to him, as he presumes the directions contained in that bill would only be intended to govern him so far as they should be consistent with positive directions in existing acts not expressly repealed: and if application should be made under the resolution of the 16th of March, 1832, for those copies for the use of the Assembly, there will be none on hand applicable to the object of the bill.

Should it be found necessary at an early day to publish another edition of the Revised Statutes, with such modifications and additions as have been made by legislation subsequent to the period at which they went into effect, the delays inseparable from the accomplishment of so laborious an undertaking, would be such as to leave few copies of the present edition on hand. Indeed, without some further discretion in the Secretary of State, it is probable that the 83 copies now on hand will in a short time be sold under the positive directions contained in the 31st section of the act of December, 1828, unless the Legislature shall otherwise provide.

Respectfully submitted.

JOHN A. DIX.



**No. 306.**

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**IN ASSEMBLY,**

**April 9, 1833.**

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**REPORT**

**Of the committee on claims, on the petition of  
Justin Gay.**

The committee on claims, to whom was referred the petition of Justin Gay, in behalf of Mary Shaw, heir-at-law of John Shaw, a soldier of the revolution, claiming remuneration for lot No. 63, in the town of Pompey, originally patented to John Shaw.

**REPORTED:**

John Shaw was a soldier of the revolution, and lot No. 63, in the town of Pompey, was patented to him for his services in that eventful struggle. He, however, died many years since, and it was believed the lot had escheated to the State; proceedings were accordingly instituted by the Attorney-General and judgment recovered in favor of the State, and the lot disposed of by the Commissioners of the Land-Office as escheated land.

It is now alleged by the petitioner that *she*, in fact, is the heir-at-law of said soldier, who was an American citizen, and at his death the lot descended to her, and she has exhibited strong evidence of the truth of this allegation. But it appears from evidence produced to the committee that there are other persons claiming to be the heirs-at-law of John Shaw, *the* soldier, and who, they allege, is a different person from that of the petitioner's father, and that *their* ancestor was the true soldier; and the father of the petitioner, though bearing the same name, was not *the* soldier who drew the land. These respective claims have been litigated, but neither claim fully sustained; and though the testimony preponderates in favor of the petitioner's claim, it is not entirely free from doubt. And inasmuch as there is a bill now before the House in relation

to *escheats*, which, if passed into a law, as the committee are of the opinion it ought, is calculated to do perfect justice to the parties' interest in all cases of this kind, and as it is not certain which of the claimants of the lot (if either,) are entitled thereto, the committee are of the opinion that the prayer of the petitioner ought not to be granted, and therefore offer for the consideration of the House the following resolution:

*Resolved*, That the prayer of the petitioner, Mary Shaw, ought not to be granted, and that the petitioner have leave to withdraw her petition and the documents accompanying the same.

**No. 307.**

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**IN ASSEMBLY,**

**April 12, 1833.**

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**REPORT**

**Of the Surveyor-General on the petition of Thomas W. and Daniel Newcomb.**

The Surveyor-General, on the petition of Thomas W. Newcomb and Daniel Newcomb, referred to him by the Honorable the Assembly,

**RESPECTFULLY REPORTS:**

That Zephaniah Platt, on a location made with military bounty rights, obtained letters patent in 1787 for 6,105 acres of land in the county of Clinton, intended to comprehend all that was vacant between the patents called Doane's on the north, and Beekman's on the south, issued in 1769. A competent surveyor was deputed and furnished with abstracts of these patents to run out Platt's location. From the documents produced by the petitioners, it seems that for the north bounds of the location, a line was assumed which interfered with Doane's patent; but the most serious interference alledged, is with the patent of Duerville, which was intended to be bounded on the east by Beekman's and Platt's patents. This patent is tested the 14th August, 1786; although the date of its issue was not until December 1789. The reasons assigned for this interval, on the minutes of the Land-Office, are, unavoidable delays. The Duerville patent was surveyed in 1788; and it is alledged that it cuts off a considerable part of Platt's patent, including the land for which the petitioners claim indemnification. The surveyor deputed for Duerville, was as well qualified, and as cautious as any that could be selected, and furnished with all necessary documents for his guidance. If he has erred, it can be accounted for only by his mistaking the west bounds of Beekman's

patent. If the statement of the petitioners be correct, others will have equal claims on the State, founded on the same circumstances; the Surveyor-General is therefore of opinion that the importance of the case will warrant an order from the Legislature to have it strictly investigated by such surveys as will ascertain where and to what extent the interferences exist. It is possible that an undue extension may have been given to the two colonial grants in the surveys made of them by the proprietors, as such cases are not uncommon; for this reason their bounds ought also to be examined.

Respectfully submitted.

SIMEON DE WITT, *Sur'r-Gen'l.*

*April 11, 1833.*

**No. 308.**

**IN ASSEMBLY,**

**April 12, 1833.**

**ANNUAL REPORT**

**Of the Albany Savings Bank.**

COMMERCIAL BANK, }  
*Albany April 11, 1833.* }

**SIR—**

I have the honor to transmit enclosed the annual statement of the Albany Savings Bank, as it existed at the close of the half year ending 1st January last.

I have the honor to be, sir,

With great respect,

Your most ob't serv't,

**H. BARTOW, Treasurer.**

**Hon. Wm. BAKER,**

*Speaker of the Assembly.*

*State of the Funds of the Albany Savings Bank, on the 1st day of January, 1833.*

Due to depositors for principal and interest, on the 1st day of January 1832, as per return,.....	\$142,623 14
Deposited since that period,.....	65,237 00
Interest accrued since that period,....	\$6,542 45
Deduct interest received on canal stock, 1,887 52	
	<u>4,654 98</u>
	\$212,515 07
Drawn since, by depositors,.....	58,800 00
Due to depositors, 1st January 1833,.....	<u>\$153,715 07</u>



**CONTRA.**

12,500 dollars 6 per cent canal stock, cost,.....	\$13,437 50
12,750 dollars 5 per cent do " .....	22,207 64
Balance due from the Commercial Bank,.....	118,069 93
	<hr/>
	<b>\$153,715 07</b>
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The whole number of depositors is 780.

H. BARTOW, *Treasurer.*

**No. 309.**

**IN ASSEMBLY,**

**April 12, 1833.**

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**REPORT**

**Of the select committee on the petition of inhabitants of Steuben county.**

Mr. McKeon, from the select committee to whom was referred the petition of sundry inhabitants of the county of Steuben, praying a repeal of the law relative to the inspection of sole-leather in said county,

**REPORTED:**

The petitioners state that the manufacture of sole-leather is carried on to a considerable extent in said county, and in consequence of the facilities offered to manufacturers, is rapidly increasing. The county embraces a large extent of territory, and its size renders the inspection both inconvenient and expensive to those interested in the manufacture of sole-leather. Several counties in the State are not subject to the inspection law, and the petitioners desire to be also excepted from the operation of the Revised Statutes.

The committee deeming the request of the petitioners reasonable, ask leave to introduce a bill in conformity with the prayer of the petitioners.



**No. 311.**

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**IN ASSEMBLY,**

**April 15, 1833.**

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**REPORT**

**Of the select committee on the petition of Edmund Frost and Philip Harmon, relative to a wharf at Williamsburgh.**

Mr. McKeon, from the select committee, to which was referred the petition of Edmund Frost and Philip Harmon, praying for authority to erect a wharf at Williamsburgh,

**REPORTED:**

The petitioners state they are the owners, in fee, of the upland at Williamsburgh, in the town of Bushwick and county of Kings, described on a map annexed to the petition presented to the Legislature. They are desirous of improving the property in that vicinity, and for that purpose solicit the passage of an act empowering them to erect wharves and piers in front of their premises, and to receive the dockage and wharfage of the same.

The committee has directed their chairman to report a bill in conformity with the prayer of the petitioners.



**IN ASSEMBLY,**

**April 15, 1833.**

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**REPORT**

**Of the committee on agriculture, on so much of the Governor's message as relates to that subject, and also the petitions of the Agricultural society of county of Saratoga, and of the inhabitants of the counties of Monroe and Onondaga.**

Mr. Skinner, from the committee on agriculture, to which was referred so much of the Governor's message as relates to that subject, and also petitions of the Agricultural society of the county of Saratoga, and of the inhabitants of the counties of Monroe and Onondaga, soliciting legislative aid for the improvement of agriculture, horticulture, and the household arts,

**REPORTED:**

That the chief magistrate of our State, in his message, has recommended to the consideration of the Legislature the interests of agriculture, as "lying directly in the range of our legislative duties, and demanding from us a particular attention."

The petition of the Agricultural society of Saratoga county, recommends to our consideration the establishment of agricultural schools as an efficient means of improving our husbandry, and as an act of justice due to a very numerous and meritorious class of our fellow citizens.

The petitions from the counties of Monroe and Onondaga ask for the establishment of a State agricultural institution, to be constituted by a main State society, with county societies as branches of the same; to be endowed with an annual appropriation of \$25,000 from the State treasury, to be distributed among the se-

veral county societies, on the ratio of one hundred and fifty dollars to each member of the Assembly; to be expended in premiums for practical and experimental improvements in agriculture, horticulture and manufactures; and the residue, (being nearly six thousand dollars,) appropriated for the funds of the State society, to be expended in procuring choice, select, rare and useful animals, vegetables, seeds, implements and essays on agriculture, for public distribution."

Your committee are persuaded that our agricultural population exercise a highly imposing influence upon the character and prosperity of the State. They create, by their labor, the bulk of our wealth; they control, by their numbers, our civil and political institutions; and they give the impress, by their habits and understanding, to our moral and social character; and, to use the appropriate language of the Governor in his message, "it must be regarded as a matter of some surprise, that an employment in which so great a number of the human family are directly engaged, to which all look for their daily bread, and upon which commerce, manufactures and the mechanic arts—indeed all the various pursuits of mankind—so necessarily depend, should not have risen to a still higher consideration than it has yet attained, and received from those entrusted with the power of legislation more liberal aids." Exercising, therefore, as the agriculturist does, such a controlling influence in all our affairs, it manifestly becomes our interest, as it seems to be our duty, to place within the reach of this numerous class of citizens, all the aids which science and skill have brought, or can bring, to benefit their labors—to stimulate them to enterprise and usefulness, by liberal encouragements and rewards; and to qualify them for the high and responsible duties of freemen, by extending to them, as we have already done to the patrician and professional classes, the commanding influence of education.

Science has produced a wonderful revolution within a few years in the manufacturing and mechanic arts; abridged human labor, and given an accuracy and certainty to its manipulations before unknown. Its principles are believed to be still more extensively applicable and useful in the labors of husbandry: and no branch of industry can long prosper amid the competitions of the world, unless it keeps pace with the improvements of the age.

Nor are political considerations unworthy of being taken into account. Civil liberty has no where imposed stronger responsibilities

than upon the yeomanry—the political sovereigns of these States; and from none does she expect a more rigid fulfilment of the trust. We are as a light elevated to the view of the world, and every flickering is watched with deep solicitude, by good men of every nation and country. Without wishing to make invidious distinctions in society, or derogating from the well-earned fame of our literary and professional men, we beg leave to remark, that in this, more than in any other country, the agricultural is the most important class; and if it is not equally honorable, it is only because it is the least enlightened. Give to this class the facilities of a higher education, and we shall not disappoint the world's best hope; we shall elevate the character of its agriculturists with that of the State, and augment our resources and happiness. But your committee forbear to enlarge upon the advantages of education to agriculturists, inasmuch as an able report upon this subject, accompanied by a bill to establish an agricultural school, is already upon our files.

The proposition for a State agricultural institution, with branches in the several counties, and the appropriation of an annual sum from the State treasury, to be awarded in premiums for practical and experimental improvements in agriculture, horticulture and manufactures, has also the undivided approbation of your committee. Experience has ever been held to be the school of wisdom; and whenever lessons have been taken upon this subject, the result has fully confirmed the most sanguine hopes of their utility.

We are informed that when Mr. Coke, the distinguished English farmer, came into possession of his extensive estate, the condition of farming upon it was wretched, and much of the land so sterile and barren as to rent for three shillings an acre, tithe free. Through the enterprise and example of this distinguished individual, and the liberal distribution, for forty successive years, of premiums for skill and excellence in husbandry, the condition of these same lands became so improved as to be classed among the most productive in Great Britain, and were worth an annual rent of thirty shillings an acre. Nor was the influence of example and reward more remarkable upon the soil, than upon those who tilled it. The tenants became intelligent, enterprising and wealthy, and the habits of all so improved that pauperism was hardly known: and although in a country where one-seventh of the population receive public charity, the poor-house belonging to these parishes be-



came useless, and was actually pulled down. The premiums awarded annually by this enterprising landholder amounted to about seven hundred dollars. The income of the estate was more than quadrupled, and its population trebled. These facts, so full of instruction to those who are charged with the supervision of the public interests, are given on the authority of Mr. Rigby, and were noted down by him at Halkham sheep-shearing, in 1816.

But your committee need not search abroad, they think, for facts to show the *economy* of liberal appropriations for the improvement of our agriculture. Our adjoining sister State affords a happy and instructive illustration; and we may safely assert, that no State in our confederacy fosters with better care her true interests than Massachusetts; and no State exhibits a more industrious, intelligent and thriving population. We may profit by her example in this as in many other cases. She has for years appropriated public moneys to be distributed in premiums for improvements in rural labor; and she continues the appropriation with increasing prospects of usefulness. Your committee are not apprised of the amount of these appropriations; but understand that the county of Berkshire, which borders on this State, receives annually three hundred dollars as her share of the bounty. Her population is 37,000. An appropriation in New-York in a like ratio to population, would make an aggregate of about 17,000 dollars per annum. And shall the great, the wealthy, and the powerful "empire State" of New-York, fall behind her sister State, in the rapid march of liberality, science and improvements; or in aught that can advance the true interests of her citizens, and render them more intelligent, independent and happy? We trust not.

Your committee now beg leave to advert to the act of this State, of 1819, appropriating forty thousand dollars for agricultural purposes; and although its results were not as beneficial as its most sanguine friends anticipated, yet they have furnished to those who have had the opportunity of noticing our late improvements in husbandry, ample proofs of the utility and importance of public appropriations for such purposes. And we are well satisfied that the forty thousand dollars appropriated by our Legislature in 1819, to stimulate to improvements in agriculture, have been refunded, amply refunded, to our treasury, principal and interest, in the increased amount of our canal revenue alone, to say

nothing of the moral and intellectual improvement which the impetus that law gave to skill and industry, wrought in our population. Wherever the spirit of improvement went forth, which that law called into action, every branch of husbandry has been rendered more productive; more labor has been applied, and better applied than before; and the impulse which it gave to mind and body, has not even yet lost its force. How many farmers are there at this day, who can say that that much abused law gave the first stimulus to a course of improvements in their business, which has subsequently rendered them more wealthy, more useful, and more happy.

Agriculture is not capable of suddenly developing its improvements like the common arts of life. Hers are the progressive operations of years. Choice seed must be sought and sown, and their produce distributed; improved stock must be introduced and multiplied; knowledge must be diffused, competition awakened, and the soil fertilized by a judicious course of crops, and a new economy in manures. The improvements of Bakewell, the wonder and admiration of his age, were not fully developed and appreciated, till he was in his grave. Those of Coke were progressive for forty years. We cannot expect ever to gather the harvest until we have sown the seed, and nurtured the plants.

We allude with pride and satisfaction to the rich and flourishing county of Jefferson, which alone has had spirit and enterprise to sustain her agricultural society, unaided by the public treasury; and she affords another happy illustration of the good effects of awakening competition and industry by proffered rewards. In no county of the State have improvements in husbandry been so great as in this; and it is within the personal knowledge of some of your committee, and has also been remarked, by gentlemen who are competent judges, that since the establishment of her agricultural society, her farm stock has improved *fifty per cent*; and that her horses in particular are surpassed by none.

Your committee, after deliberate consideration, have come to the conclusion, that the prayers of the petitioners ought to be granted; and, in conformity with the wishes of the petitioners from the counties of Monroe and Onondaga, they have prepared a bill, and directed their chairman to ask leave to introduce the same. Yet, as the subject is of great importance, and involves a large expenditure of money, your committee do not deem it advisable to --

a hasty decision; but would recommend that copies of this report and accompanying bill, together with the report and bill presented in the Senate, in relation to an agricultural school, be printed, and distributed in the several counties, through the general committee of the State Agricultural Society, with the view of bringing the subjects before the people, that they may discuss their merits, and be enabled to instruct their representatives on a future occasion.

In conclusion; your committee deem it an incumbent duty, at the suggestion of some distinguished individuals, to call the attention of the public to the rapidly increasing growth, and extensive spread of that most noxious of all weeds, called the *Canada thistle*, which is making alarming inroads upon the country, spreading in all directions, and threatening to overrun, in a short time, our whole State. Invited by the richness and fertility of our soil, they have already established their dominion over a large portion of our territory; and unless their rapid progress is soon arrested by the strong arm of law, their innovations cannot be checked; their ascendancy will be complete, and their dominion universal. It is a well known fact among all agriculturists, that where these mischievous intruders once gain a foothold in soil congenial to their growth, which is always of the best quality, they cannot be eradicated without many years of close attention, trouble, and expense; and if neglected and suffered to go to seed, such is the buoyant appendage of their seed that they are wafted on the "wings of the wind" to an almost incredible distance, and spread over the country with astonishing rapidity. The alarming increase of this baneful weed, your committee believes, is a growing evil, which calls loudly for legislative enactments. We are well persuaded that nothing can successfully arrest its progress, short of an act of the Legislature, guarded by a strong penalty, making it the imperative duty of every town in the State, to adopt some mode or plan, by which means they can be subdued, and the dissemination of their seed prevented. In order to accomplish this, we know of but one sure and efficacious mode. The plants must be cut several times in the course of the season, and not one should be suffered to come to maturity, or to propagate its seed.

Your committee need not enlarge on the mischievous nature, and evil tendency of this much dreaded and most noxious weed, nor use further arguments to show the necessity of taking legal

measures to exterminate its race from our flourishing State. That public attention may be elicited, we cheerfully submit the question, together with all the sentiments and propositions embraced in this report, to the sovereign people, the only legitimate source of power, who will undoubtedly respond in such a manner as to enable our next Legislature to act on these important subjects, understandingly, and "by authority."

All which is respectfully submitted.



## **AN ACT**

### **To incorporate a State Agricultural Institution.**

*The People of the State of New-York, represented in Senate and Assembly, do enact as follows :*

§ 1. There shall be established a State agricultural society, which shall be known by the name and style of the New-York Agricultural Institution, for the term of twenty years, as a body politic and corporate, which shall be composed of delegates from the several county societies which now are, or may hereafter be organized, to be elected either at the annual meeting, or by a board of managers; and also of the members of both branches of the State Legislature, as the members thereof, who shall annually convene at the Capitol in the city of Albany, on the first Tuesday of February, for the choice of officers and the transaction of business: and in case any county society shall neglect to elect said delegate, in manner aforesaid, the president thereof shall be, ex-officio, such delegate, or he may appoint a proxy.

§ 2. Said institution hereby established shall be endowed with an annual appropriation of twenty-five thousand dollars from the State treasury, to be paid by the Treasurer of the State, on the warrant of the Comptroller, to the treasurer of said institution; and shall be by him distributed among the several county societies, on the ratio of one hundred and fifty dollars to each member of the Assembly; which amount shall be expended by said societies in premiums for practical and experimental improvements in agriculture, horticulture and manufactures; and the residue of the said twenty-five thousand dollars, (being nearly six thousand dollars,) shall constitute a fund for the said State institution, to be expended in procuring choice, select, rare and useful animals, vegetables, seeds, implements, and essays on agriculture, for public distribution.

§ 3. The citizens of the several counties of this State are hereby authorised and required to form a county agricultural and hor-  
[Assem. No. 812.]

gricultural society in their respective counties, which shall be organized by electing such and so many officers and committees as they may deem necessary, whose duty it shall be to draw their respective quotas of the public moneys hereby appropriated, by the draft of their presidents, certified and sealed by the county clerk, on the treasurer of the State society. And it shall also be the duty of said county officers to distribute said moneys so drawn, after paying the necessary contingent expenses, for premiums on the best articles of agricultural and horticultural products, farm stock, experiments in farming and gardening, routine of crops, premium farms, and all the varieties of domestic, household and shop manufactures.

§ 4. It shall be the duty of the treasurer of each county society, on or before the first day of January annually, to render an account of the application of all the moneys which shall come into his hands, to the treasurer of the State society, whose duty it shall be to render a like account to the Comptroller of this State; and the surplus funds of any one year, if any, shall be applied in extending the list of premiums for the succeeding year: and any county which shall fail to form and organize a society, shall forfeit its quota of the State appropriation, and the amount thereof shall be carried, either to the disposable funds of the State society, or to the next year's fund for distribution to the county societies.

§ 5. The president, corresponding secretary, recording secretary, and the treasurer of the State institution, may be allowed a salary, not exceeding two hundred dollars per annum, for their services; and the like officers of the several county societies, together with the managing committee and the reviewing committee for premium farms, may be allowed a sum not exceeding twelve shillings per day, for actual services rendered, in making preparations for, and in superintending the public exhibitions, and other business concerns of the society.

§ 6. The object of this act of incorporation being to improve the condition of agriculture, horticulture and the household arts, said corporation shall be allowed, for these purposes only, to take and hold real and personal estate, the former to the amount of twenty-five thousand dollars; and shall possess the general powers, and be subject to the liabilities and provisions contained in title third of the eighteenth chapter of the first part of the Revised Statutes.

**No. 313.**

**IN ASSEMBLY,**

**April 16, 1833.**

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**REPORT**

**Of the committee on trade and manufactures, on an engrossed bill from the Senate, entitled "An act to incorporate the North River Whaling company."**

Mr. Myers, from the minority of the committee on trade and manufactures, to whom was referred an engrossed bill from the Senate, entitled "An act to incorporate the North River Whaling Company," with a capital of three hundred thousand dollars, to be located at Newburgh, in Orange county, have had the same under consideration, and after bestowing on the subject that attention the nature of the claim seems to merit,

**REPORTED:**

That strong doubts rest on their minds as to the policy and expediency of increasing this class of incorporations, because there is a marine and commercial company, with a declared capital, beyond which the stockholders are not made liable in case of failure, beyond that amount. All incorporations of this sort are able to obtain credit to large amounts in great or small sums; and hazard is attached to all commercial pursuits, more especially to marine adventures. It is true they may guard against loss by becoming insured, but it does not follow that such incorporations will always be willing to pay large amounts of premium to other incorporated companies, when they have the right of being their own underwriters, saving the premium of insurance as a part of the profits of the voyages; as the number of their ships increase, the objections to pay the premium also increases; the idea that they will seldom lose a ship, and when they do, the premiums saved on many other voyages, will enable them to bear the loss;

[Assem: No. 218.]



such are the calculations of some merchants, and will equally apply to companies.

In 1830 a whaling company was incorporated as the pioneer of this class of incorporations, which company never went into operation, in consequence of the stock not having been taken up: it was followed in 1832 by an act incorporating a whaling company, to be located at Newburgh, in Orange county; and the principal reason assigned by those who advocated its passage, was that the association for a like purpose, which had been for some time in full operation at Hudson, engaged in the same pursuits, had met with great embarrassments at the custom-house, and that one or more of their ships was then subject to seizure, under the United States revenue laws, for want of an act of incorporation, which would enable them to enter and clear their ships, and to bond for duties through their president and secretary, under their corporate seal. On the other hand, it was contended that numerous associations for like purposes had for years been in full operation in Connecticut, Rhode-Island, and in Massachusetts, and no such difficulties had ever been experienced; and the associations at New-London, Nantucket, New-Bedford and other places were mentioned in support of the argument; the bill however, passed both houses, and became a law; within three days thereafter the chairman of this committee, who had opposed the passage of that bill on the floor, received a letter from Mr. Wiswall of Hudson, one of the largest stockholders in the Hudson association, which he requested might be read in the House, disclaiming all of the facts relative to difficulties at the custom-house, and stating that the association entertained no intention of applying for an act of incorporation.

The committee are of opinion that acts of incorporation have become too common in this State; that they are, to a certain extent, monopolies, and come in immediate contact with individual rights, and operate against individual enterprise; and of all incorporations commercial ones are the most dangerous to the community. The stockholders reap the advantages of trade without being liable to the hazard of loss of character, in case of failure, or of property beyond the amount of their stock in the companies; because commercial incorporated companies under the European governments have been considered an evil, and such is the British East India Company, such was the South Sea Company, and such the Dutch East India Company; because if we continue to charter

this class of companies, what reason can be hereafter offered against incorporating the line of Liverpool, Havre, New-Orleans or Boston packets, or an East or West-India company, a steam-boat or a canal line, or even a company to run a line of stages to any part of the State; and where shall we stop?

The Legislature are called upon to reflect whether we have not already gone too far, by incorporating the Brooklyn and Newburgh companies, and whether it is not prudent to reject the bills now before the House for concurrence; as only two companies of this description have been incorporated, it is not yet too late to check the evil, if it be one.



**No. 314.**

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**IN ASSEMBLY,**

**April 16, 1833.**

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**REPORT.**

**Of the committee on manufactures, on the petition  
of B. Byington.**

Mr. Kilborn, from the committee on the manufacture of salt,  
begs leave to

**REPORT:**

That your committee have had under consideration the petition of B. Byington, for a loan of \$2,000 on his own responsibility, to enable him to pursue his exertions for the discovery of rock salt in the town of Salina, county of Onondaga. He sets forth in his petition that he has already bored to the depth of 200 feet, and that there is indication of that precious mineral sought for; that his machinery for boring is in good order, but that his pecuniary means are exhausted, and that without aid by a loan of money he will be obliged to abandon the enterprize.

Your committee are of the opinion that as the Legislature is about to come to a close of their legislative labors, it would be impossible at this late period of the session properly to investigate the merits of the petition. Your committee have therefore come to the conclusion, for the above reasons, that the petitioner have leave to withdraw his petition.

All of which is respectfully submitted.



**No. 315.**

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**IN ASSEMBLY,**

**April 17, 1833.**

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**REPORT**

**Of the committee on Indian affairs, on the petition of the chiefs of the first Christian party of the Oneida Indians, residing at Green Bay.**

Mr. Farrington, from the committee on Indian affairs, to whom was referred the petition of the chiefs of the first Christian party of the Oneida Indians, residing at Green Bay, praying for an investigation of their accounts with the State,

**REPORTED:**

That the petitioners are Daniel Bread and Cornelius Beard, chiefs of the first Christian party of Oneida Indians, residing at Green Bay. They set forth in their petition that their party, in two several treaties made with the State of New-York, sold to the State two several parcels of their land; one of which was appraised at and sold for \$12,972.97, and the other for \$19,728.98; that Eli Savage, Esq. was appointed by the Governor under the act of 11th February, 1829, an agent "to take charge of their money and go with them to Green Bay;" that Daniel Bread, one of the petitioners, removed with his party, consisting of 106 souls, in the summer of 1829, with the said agent to Green Bay; and that Cornelius Beard, the other petitioner, removed with his party, accompanied by said agent, to the same place in the summer of 1830. The petition, after adverting to an apparent discrepancy in some items of receipts and expenditures, as they are entered in the Comptroller's books, prays for the "appointment of a committee to investigate the manner in which the said sums of \$12,972.79 and \$19,728.98 have been paid out of the treasury, and by what authority; to cause the said agent to render a just account of all

of said moneys received and disbursed by him, and to examine the bills and receipts in support of each item thereof; in order that if it shall appear that the condition of said agent's bond has not been performed, that such measures as may be deemed requisite by the Legislature may be adopted to cause the said bond to be prosecuted and their rights to be maintained."

Agreeably to the prayer of the petitioners, your committee have investigated the manner of expenditure and the authority by which the moneys aforesaid have been paid out of the treasury, together with the bills and receipts in support of each item of disbursement.

The whole of the sum first above mentioned, and a part of the latter, have been paid to and disbursed by the said agent, except some payments which were made directly from the treasury to the said Indians. These payments were made by the Treasurer upon the warrant of the Comptroller, in the usual manner of transacting business of that kind.

The chairman of your committee, aided by the late Comptroller, who transacted the business with said agent, has gone through with and investigated all the vouchers, amounting to several hundred in number, in support of the several items of expenditure by the said agent, as they appear by the books of the Comptroller's office. These vouchers fully account for all the moneys paid to the agent out of the treasury.

The petitioners complain, that by the Comptroller's books it appears that the expense of transporting the said Cornelius Beard and his party to Green Bay amounted to \$4,833.10; a sum believed by the petitioners to be beyond the amount actually expended. This item appears upon the book of the Comptroller as one of several items received by the agent at various times, and expresses the general purpose for which it was paid to the agent. The entry is in these words: "Rec'd from the treasury, June 9, 1830, for transporting Cornelius Beard and his party, \$4,833.10." On examination of the vouchers which account for the expenditure of this sum, your committee find that the sum of \$1,450.53 only was expended for the *conveyance* or *transportation* of the said Beard and party, and that the residue of said sum, amounting to \$3,457.30, was expended for various articles of property for said Indians, such as provisions, clothing, blankets, implements of husbandry, &c. and for the erection of a mill. The statement upon

the Comptroller's book, of the various items of money received by the agent, does not particularize the items of expenditure, but expresses generally the object of their receipt by the agent. It is probably from this general expression that the idea is obtained by the petitioners that the whole sum was charged as the expense of their transportation merely, when in fact the greater part of it was expended for other purposes.

The petitioners notice in their petition a discrepancy between the receipts and expenditures in the transportation of Daniel Bread's party to Green Bay, as appears from the entries in the Comptroller's book. One item received by the agent amounts to \$7,500, and the statement of expenditure to \$6,500 only, leaving apparently \$1,000 unaccounted for. On examination of the vouchers, however, the latter entry is found to be erroneous; it should be \$7,500; the vouchers showing that sum to have been actually expended. Another item of expenditure in the same statement is put down, as appears by the vouchers, at \$1,000 too much. The aggregate of the two items therefore is correct; the one being just as much too large as the other is too small. The effect of this is to make two apparent discrepancies, of \$1,000 each, between the receipts and expenditures; and which, if true, would give to the tribe collectively \$1,000 less than their due, and to some individual Indians the same amount more than their due. But this, as your committee have before remarked, is not true in point of fact; the vouchers showing the money to have been properly expended, but an error made in the entry.

Your committee, without going further into detail upon the subject of the receipts and disbursements of the money of the said Indians by the said agent, have only to remark, that they have given the subject referred to them an elaborate investigation, and have been unable, from the facts which have come to their knowledge, to discover any mismanagement or misapplication of the moneys belonging to said Indians. The committee are therefore of opinion that no legislation is necessary in the premises, and recommend that the petitioners have leave to withdraw their petition.

All which is respectfully submitted.





**No. 318.**

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**IN ASSEMBLY,**

**April 18, 1833.**

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**REPORT**

**Of the Commissioners of the Land-Office, on the bill entitled, "An act to vest in the city of Hudson, the title to certain lands therein mentioned."**

The Commissioners of the Land-Office, to whom was referred by the Assembly, the bill entitled, "An act to vest in the city of Hudson the title to certain lands under water," have the honor to submit the following

**REPORT:**

It has long been the established policy of the State to grant to the proprietors of the adjacent soil, lands under the waters of navigable rivers, &c. for the purposes of commerce. These grants have been uniformly made without pecuniary consideration, and with no other benefit on the part of the State than the improvement of its commerce and industry.

The Revised Statutes, vol. 1, page 208, sec. 67, provide that the "Commissioners of the Land-Office shall have power to grant so much of the lands under the waters of navigable rivers or lakes as they shall deem necessary to promote the commerce of this State; but no such grant shall be made to any person other than the proprietor of the adjacent lands, and every such grant that shall be made to any other person, shall be void."

The Commissioners of the Land-Office, before making grants of such land to individuals, have required the applicants to make affidavit that they intended to appropriate the lands applied for, to the purposes of commerce, by erecting thereon a dock or docks; and to produce an affidavit of the first judge of the county, or the su-

pervisor and town clerk, or two of the assessors of the town in which the lands were situate, stating that the lands applied for were not more than what was necessary for the purpose aforesaid, and that they believed it to be the bona fide intention of the applicant to appropriate the said lands to the purposes of commerce.

These precautions were deemed sufficient to guard against a misapplication of the lands granted to objects not in contemplation of the statute, under which the grants were made. But in the year 1832 a case occurred, in which a patentee, without doing any thing for the promotion of commerce, is said to have set up a claim to the right of fishing, to the exclusion of other citizens, who had, previous to the grant, enjoyed it in common with him. Although it was the opinion of the Attorney-General, that the patent, upon proof of the facts, might be repealed by *scire facias*, on the ground that it was obtained by false and fraudulent suggestions; and that a neglect to appropriate the land, within a reasonable time, to the purposes contemplated by the statute, would work a forfeiture of the estate; yet it was deemed proper by the Commissioners of the Land-Office, in the early part of the year 1832, to adopt a new form of letters patent, for the purpose of guarding against imposition. The patents now issued, reserve to the people of the State the full and free right, liberty and privilege of entering upon and using all and every part of the premises granted, in as ample a manner as they might have done, had the grant not been made, "until the same shall have been actually appropriated and applied to the purposes of commerce, by erecting docks and wharves thereon, and filling in the same." They also provide that if the grantee should not within two years actually appropriate and apply all and every part of the lands granted, to the purposes of commerce, by erecting docks and wharves thereon, and filling in the same, the grant should cease and determine, so far as related to any part of the premises, and not so appropriated and applied.

By force of these reservations, the Commissioners of the Land-Office believe that all abuse or evasion of the intention of the statute may be effectually guarded against.

The 1st section of the bill referred, vests in the corporation of the city of Hudson, in fee simple, all that parcel or tract of land under water, situate in the South bay of the Hudson river of the city of Hudson, and contained within certain limits therein described.

The second, third and fourth sections provide that the corporation shall convey in fee to the owners of the land adjacent to said bay, the lands under water in rear of their respective lots, to a certain distance therefrom.

The 5th section provides that the corporation shall lay out the said lands under water, into lots and streets, and cause an accurate map and survey thereof to be made.

The 6th and 7th sections provide that the corporation shall, upon the application of individuals or companies, convey so many of said lots to such individuals or companies as may be applied for, upon certain terms and conditions, one of which is, that the conveyance shall be void, if the improvements prescribed by the corporation to be made on the granted premises, shall not, within the time limited by the conveyance, be completed.

The premises proposed to be vested by the bill, in the corporation of the city of Hudson, consists of all the lands under the waters of the South bay, which are represented to be shallow and unfit for the navigation of vessels. Much of the land is said to be bare at low water, but, at high water, the shores of the bay may be approached with scows and boats.

The object of the corporation is understood to be to provide more effectually for the extension of docks along the eastern line of the channel of the Hudson river, and for such other improvements within that line as are required by the growing commerce of the city. Although the Commissioners of the Land-Office have full power to make, on the application of the proprietors of the adjacent lands, all grants which may be necessary for the required improvements, it is supposed that the same powers conferred on the corporation, with the authority to prescribe the nature of the improvements to be made, and to convey to others than the owners of adjacent lands, with certain reservations in favor of the latter, may be more advantageously exercised for the interests of the city. Indeed, it is apprehended that without such powers in the corporation many essential improvements may be deferred, to the serious prejudices of those interests.

The Commissioners of the Land-Office are aware that the people of the State should be cautious in conveying to the local authori-

ties of cities and towns upon the navigable waters of the State, their title to the lands under them, excepting so far as the interests of commerce may be promoted by the grant. They would not on any other ground recommend the passage of the bill referred to them. But on a careful examination of the provisions of the bill, and of the map of the premises proposed to be conveyed with the contiguous waters, they have been able to discover no objection to the grant, with the reservations hereinafter mentioned. They believe that the lands under the waters of the South Bay, proposed to be granted, may be occupied by docks and such other erections as shall be required for the uses of commerce, without any obstruction to the free navigation of the river, and without encroaching upon the channel of the stream.

By the act of 25th February, 1826, Laws of New-York, 49 sess. chap. 58, the Commissioners of the Land-Office were directed to issue letters patent, granting to the mayor, aldermen and commonalty of the city of New-York, the lands covered with water on the eastern shore of the North river, and the western shore of the East river, at and from low water mark, and extending four hundred feet into said rivers, with a proviso that the proprietor or proprietors of the lands adjacent should have the pre-emptive right, in all grants made by the corporation of the said city, of any lands under water granted to the said corporation by that act.

This extensive grant, which it can hardly be necessary to adopt as a standard for similar grants in the interior of the State, was doubtless deemed necessary to enable the corporation of New-York to provide for the rapidly augmenting foreign commerce of the city: and on this ground it may be supported by arguments which would be inapplicable to the present condition, or any probable future wants of the inland cities and towns. But in this grant, the prevailing principle was preserved, of making a distinction in favor of the owners of contiguous soils, by giving them a pre-emptive right to the granted lands.

In the bill under consideration, there is no provision corresponding precisely with this. But in lieu of it, the corporation of the city of Hudson are required to convey absolutely to the owners of lots and land contiguous to the waters of the South bay, a certain portion of the lands under those waters. These owners are, if not

all, with few exceptions, parties to the application, and acquiesce in the disposition which has been made of the preference, to which they would be entitled under the established practice of the State in relation to such grants.

By an examination of the map, it does not appear that any reservation has been made in favor of the lands belonging to the estate of the late Joseph Goodwin. These lands were conveyed to Joseph Goodwin and Robert Center, by letters patent, dated the 13th day of November, 1813, under an act passed on the 24th March, 1820, Laws of New-York, 43d session, chap. 112, and docks of considerable value are constructed upon them. To secure the use of these lands and docks to the owners, the Commissioners of the Land-Office deem it indispensable that a proviso should be inserted in the first section of the bill, to the following effect, viz: that a passage by water of one hundred feet in width, extending from the southwesterly corner of the dock belonging to the estate of Joseph Goodwin, deceased, and running with a uniform width of one hundred feet along the south front of the lands belonging to said estate, to a line corresponding with the westerly line of Water-street, shall be left free and unobstructed for the purposes of navigation, and that no part of the lands under water included within this reservation, shall ever be filled in, or otherwise obstructed, any grant in the bill to the contrary notwithstanding.

Should the Legislature deem it proper to make the proposed grant, it would be advisable, as a matter of precaution, to insert in the bill a reservation to the people of the State, of the full and free right, liberty and privilege of entering upon and using all and every part of the premises conveyed, in as ample a manner as they might have done had the grant not been made, until the same shall have been actually appropriated and applied to the purposes of commerce, by erecting docks and wharves thereon, and filling in the same.

It would also be advisable that the Legislature should reserve the right of altering, modifying or repealing the grant, so far as it should be deemed necessary for the purpose of correcting any evil or injustice which may by possibility grow out of it.

With these additions to the bill, the Commissioners of the Land-Office see no objection to its passage.

Respectfully submitted.

JOHN A. DIX, *Secretary*,  
A. C. FLAGG, *Comptroller*,  
GREENE C. BRONSON, *Att'y-General*,  
SIMEON DE WITT, *Surv'r-General*.

*April 16, 1833.*

**IN ASSEMBLY,**

**April 18, 1833.**

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**REPORT**

**Of the committee on the incorporation of charitable and religious societies, on the petition of the society of mechanics and manufacturers of the county of Kings.**

Mr. Settle, from the committee on the incorporation of charitable and religious societies, to which was referred the petition of the society of mechanics and manufacturers of the county of Kings,  
**REPORTED:**

That the petitioners pray for an amendment of their charter so as to vest the power of admitting members to the society in a board of directors, instead of the society generally, and assign as the reason for the proposed change, that a responsibility would rest upon the board of directors, which now attaches to no one. The committee cannot discover the force of the reason urged by the petitioners, and believe that in a society so limited in its powers and duties as that of a charitable institution, the voice of the many will be as likely to be correct as that of the few. This society was incorporated only at the last session of the legislature, and it can hardly be supposed that any serious inconvenience could have resulted from its operations, during the short period of its existence. And inasmuch as the general orders of the day are sufficiently crowded, the committee have no wish to extend its volume with matters of doubtful expediency; more particularly as the provision complained of by the petitioners is usual in bills of that character; and as the committee believe, has been incorporated in every act which has passed the House the present session.

The committee recommend that the prayer of the petitioners be denied.





**No. 322.**

# **IN ASSEMBLY,**

**April 18, 1833.**

## **REPORT**

### **Of the Canal Commissioners, on the petition of Luther Pardee and others.**

The Canal Commissioners, to whom was referred by the Assembly the petition of Luther Pardee and others, accompanied by several affidavits,

#### **REPORT:**

The petitioners allege that they are the owners of lands on the East Canada creek, near the Mohawk river, and that the dam across that stream erected by the State, flows their lands, destroys their dwelling-houses and fences, stops their mills, and renders the roads impassable; that these damages have occurred to a greater or less extent every year since the dam has been built; that "it has become truly calamitous since the dam has been raised," and that they have deferred their application to the Legislature "until the effects and influence of the dam had become indisputable." The petitioners pray the Legislature to direct that compensation be made for these damages, or that the dam, which they say "is known to be useless at the season of the year when most wanted, be destroyed."

The dam of which the petitioners complain is situated on the Mohawk river, about twelve miles below the feeder at the Little-Falls, and twenty-three miles above the Schoharie creek, and was constructed in 1821, for the purpose of a feeder to the Erie canal. In a very dry season it furnishes almost the entire supply of water as far east as the feeder from the Mohawk river, four miles below Schenectady, a distance of fifty miles; and the continuance of this dam is indispensably necessary to the Erie canal.

The lands in the valley of the Mohawk are generally low and subject to be inundated by floods, and a portion of the intervale land on both sides of the river, for about two and a half miles above the dam, have been considerably damaged by its erection. It is believed that all the claims presented to the canal appraisers for damages, in consequence of the construction of the dam, have been examined and adjudicated upon by them.

It 1830 it became necessary to repair the top of the dam, which had become much worn and injured by the ice and floods. New range timbers, and a covering of plank, was extended over the entire length of the dam, which was also raised from twelve to eighteen inches, in order to force a greater quantity of water into the canal. This gave rise to a renewal of claims for damages. The canal appraisers, in 1831, examined all the claims presented to them for damages in consequence of raising the dam, and the amount awarded to the claimants has been paid, except in one case.

If the petitioners have at any time, from the first erection of the dam to the present session of the Legislature, made any pretensions that they were injured by the dam, such pretensions have never reached either of the undersigned, as is now recollcted.

From the upper end of the pond created by the dam to the confluence of the East Canada creek with the Mohawk river, is a distance of about one mile, and is, it is believed, a continued rapid; but the difference in the level between these two points is not known.

From the circumstances to which we have referred, the undersigned are constrained to believe that the claims of the petitioners are of a very doubtful character.

All which is respectfully submitted.

*April 17, 1833.*

WM. C. BOUCK,  
JONAS EARLL, Junior.  
MICHAEL HOFFMAN,  
S. YOUNG.

**No. 323.**

**IN ASSEMBLY,**

**April 18, 1833.**

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**REPORT**

**Of the committee on the judiciary, on the petition of several members of the bar of the county of Madison.**

Mr. Livingston, from the committee on the judiciary, to which was referred the petition of several members of the bar of the county of Madison,

**REPORTED:**

That the petitioners pray for the passage of a law conferring upon the first judge of a county, being of the degree of counsellor at law, or upon a supreme court commissioner, equity powers and jurisdiction, in causes upon sums less than one hundred dollars. It appears to your that the establishment of the new equity tribunals asked for, would afford facilities for *expensive litigation*, which are not prayed for by aggrieved suitors or demanded by public sentiment. It is recommended by the committee that the prayer of the petitioner be denied.

All which is respectfully submitted.



**IN ASSEMBLY,**

**April 19, 1833.**

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**REPORT**

**Of the select committee on the petition of the mayor, aldermen and commonalty of the city of New-York, in relation to the fire limits in the eleventh ward.**

**Mr. Ostrander, from the select committee to whom was referred the petition of the mayor, aldermen and commonalty of the city of New-York, for the passage of an act to extend the fire limits in the eleventh ward of said city,**

**REPORTED:**

**That they have had the subject under consideration. The petitioners represent that they have been applied to by the inhabitants of the eleventh ward of the city of New-York to take the necessary measures for the passage of a law to extend the fire limits in said ward.**

**Your committee are of the opinion, from the facts set forth by the petitioners, that for the more effectual prevention of fires in that part of the city, that it is necessary the fire limits be extended, and that the prayer of the petitioners ought to be granted.**

**The committee therefore ask leave to introduce a bill prepared for that purpose.**



**IN ASSEMBLY,**

**April 20, 1833.**

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**REPORT**

**Of the select committee on the bill entitled “An act authorising the appointment of a supreme court commissioner, to reside in the western jury district of the county of Tioga.”**

Mr. Farrington, from the select committee to whom was referred the bill entitled “An act authorising the appointment of a supreme court commissioner, to reside in the western jury district of the county of Tioga,”

**REPORTED:**

That the county of Tioga is divided into two jury districts, called the eastern and western jury districts; that these two districts form, for most practical purposes, two distinct counties; that a supreme court commissioner for the eastern district of said county resides in the village of Owego, one of the seats of justice for said county; that the other seat of justice is the village of Elmira, situated at the distance of thirty-six miles from Owego; that Elmira is the principal village in the western jury district; and that there is no supreme court commissioner or officer authorised to do the duties of such commissioner, nearer than the village of Owego; that the western district has had an officer residing in the village of Elmira authorised to perform the duties of a justice of the supreme court at chambers, until within a few weeks—now they have none.

For these reasons, your committee are of opinion that the bill referred to them ought to pass. They therefore recommend it to a third reading.

All which is respectfully submitted.





**IN ASSEMBLY,**

**April 22, 1833.**

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**REPORT**

**Of the select committee on alien bills.**

Mr. Spencer, from the select committee to whom were referred the several bills reported to the Assembly on the petitions of aliens, or transmitted for concurrence by the Senate, and the proposed bill prepared by the Commissioners of the Land-Office, entitled "An act concerning escheats,"

**REPORTED:**

That they have carefully examined the bill recommended by the Commissioners of the Land-Office, and believe it well adapted to meet the various applications for the release of escheated lands, and calculated to save applicants much trouble and to relieve the Legislature from a mass of business which may be more safely confided to another department. With a very few amendments, the committee recommend to the House the passage of the bill.

All the bills reported to this House or transmitted by the Senate for concurrence, are provided for in the general bill now reported, and the committee therefore recommend to the House to reject those bills respectively. The following are the titles of the bills of that description which have been submitted to the committee.

An act for the relief of the representatives of Thomas Hill, deceased.

An act vesting certain premises therein described, escheated to the people of this State, in Fitch Shepard, his heirs and assigns.

An act for the relief of the heirs of James Martin, an alien.

An act for the relief of the heirs of Thomas Huston, an alien.

The cases for which these bills are intended to provide, are included within the first section of the general bill herewith reported.

An act to confirm the title of certain real estate in Herman Gansevoort, and others therein named.

An act to confirm the title of certain real estate in Obadiah Sands.

An act for the relief of Frederick A. Scriba.

An act for the relief of Robert Oliver.

An act vesting the title to certain lands in John Slack and Robert F. Slack.

The bill from the Senate entitled "An act releasing the interest of the people of this State to a lot of land in the village of Tompkinsville, Richmond county, to Samuel R. Smith.

The cases presented by the bills last enumerated are all embraced in the 15th section of the general bill now reported.

The above lists comprise all the bills and petitions referred to your committee.

**No. 327.**

**IN ASSEMBLY,**

**April 22, 1833.**

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**MESSAGE**

**From the Governor, transmitting a report and resolutions from the Legislature of Massachusetts, on the subject of the public lands of the United States.**

**TO THE ASSEMBLY.**

**GENTLEMEN,**

I herewith transmit to you a report and resolutions of the Legislature of Massachusetts, on the subject of the public lands of the United States.

**W. L. MARCY.**

*Albany, April 22d, 1833.*



# REPORT.

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## REPORT

*Of the joint special committee of the Legislature of Massachusetts, on so much of the Governor's address as relates to the resolutions of Tennessee on the subject of the public lands of the United States.*

COMMONWEALTH OF MASSACHUSETTS, }  
In Senate, February 21, 1833. }

The joint special committee of the Legislature, to whom was referred so much of the Governor's address as relates to the resolutions of the State of Tennessee, on the subject of the public lands of the United States, have attended to the duty assigned them, and beg leave to submit the following

### REPORT:

The committee, upon an examination of the resolutions referred to them, were of opinion that the tendency and operation of the measures there recommended could not be understood without an investigation of the various questions involved in a consideration of the rights and duties of the General and State Governments in relation to the public domain. They have accordingly, with such aids as it has been in their power to obtain, entered upon this investigation, and the report now submitted contains the result of their inquiries.

The committee have taken this course the more readily, from a conviction that although this Commonwealth has a deep interest in the subject, it has hitherto received from our citizens comparatively little attention.

It is not difficult to ascertain the causes of this apathy. The lands are situated at remote distances from us, and the administration of them has been necessarily confined to the General Government. The new States have always claimed and possessed the principal agency in their management and disposition. An examination will show, that for many years past the committee on public lands have been selected almost exclusively from those States where these lands lie, and the recommendations of these committees have generally been adopted without discussion.

As a necessary consequence, a course of legislation very liberal to the new States, has uniformly marked the action of Congress upon this subject. The price of land has been placed as low as it could be without exciting the avidity of speculators; large

grants have been made to the new States for public objects; and when by a change of times purchasers were unable to make payments without great difficulty, relief was afforded them by a relinquishment of a great portion of the debt. Not a session of Congress passes, without some special legislation in favor of some of the new States, by the donation of large tracts of the public land.

The committee have no disposition to complain of this liberal policy. They rejoice that every request made by the West, has been met with a spirit not only of justice, but of generosity. They cannot however but regret that this liberality has given rise to pretensions which have no just foundation, and which cannot be yielded to without jeopardizing our most important interests. Under various pretences, and in different forms, claims are now advanced which if granted would soon make all the public lands the property of the several States within whose limits they are situated. The grounds and extent of these claims will be particularly stated in a subsequent part of this report. They have been urged incessantly for years, and the extinguishment of the public debt has been seized as an occasion for renewing them with additional confidence and pertinacity. It is quite manifest, that unless this business is soon settled, by placing it on some permanent basis, the whole interest of the General Government must be sacrificed, or these lands must become the occasion of dangerous local excitements, and corrupt political combinations.

Under this impression, the committee have witnessed with much satisfaction the effort which has been made in the Senate of the United States to effect an arrangement of this question. The bill which has recently, for the second time, passed that body, while it is very liberal in its provisions for the new States, is still calculated to secure, in a good degree, the essential rights and interests of the rest. This bill provides substantially that about two millions of acres shall be granted to some of the new States, in order to render the donations to these States equal; then reserves to the States within which the lands sold are situated, twelve and a half per cent of the purchase money, in addition to the five per cent heretofore allowed on the same account, and divides the rest of the proceeds of the sales among the several States, in proportion to their representative population; to be expended by them for the purposes of education, internal improvement or colonization, at their election.

In the bill itself, and in the report by which it was introduced, and the arguments by which it was defended, another instance has been afforded of the mental forecast and patriotism of that statesman with whom the measure originated, and by whose exertions it has been mainly sustained. His name already stands identified with the great sources of our union and prosperity, but should the proposed measure succeed, there is no event of his life on which his recollection will dwell with prouder satisfaction, or which will more fully challenge the admiration and gratitude of posterity, than the settlement of the conflicting interests and claims growing out of the public domain. The committee have appended to this

report a copy of the proposed bill, in order that its provisions may be more generally understood. Although, as has been already remarked, its provisions in favor of the new States are very liberal, yet it has encountered from almost the entire delegation from those States, the most determined opposition. Such opposition can only be accounted for by supposing that they claim and expect to obtain the whole.

The committee have thought it their duty to investigate the foundation of these claims, and that they may be properly understood, they would ask the attention of the Legislature to a consideration of the origin and nature of the title of the General Government to the public domain—the benefits of the present system of survey and sale—the quantity and value of the public lands—the advantages which would result from the passage of the bill now before Congress—and the consequences to this Commonwealth of a surrender to the claims of the new States. When these subjects are well understood, it will be comparatively easy to determine upon the justice and expediency of yielding to the demands of our brethren at the West.

The title of the General Government to the public domain, is derived either from grants by several of the States, or from purchases made of foreign powers.

At the commencement of the war of the revolution, several of the States possessed immense tracts of land, lying principally west of the Alleghany mountains. The title to these lands was generally acknowledged, but the ownership of them was the occasion of much discontent to the other States. They contended that as the war was carried on by the united exertions of all, these unoccupied lands ought to be regarded as something wrested from the common enemy, and to be retained for the general benefit. They further insisted, and with much earnestness, that the several members of the confederacy ought to be placed upon an equal footing; and that the ownership of these lands would confer upon the States possessing them, a permanent superiority over those destitute of this source of revenue. So strong was this feeling, that some of the States, Maryland in particular, for a long time refused to join the confederation of 1777, and at last only consented, because, to use her own words, "it hath been said, that the common enemy is encouraged by this State not acceding to the confederation, to hope that the union of the sister States may be dissolved, and therefore prosecute the war in expectation of an event so disgraceful to America."

To remove this difficulty, Congress, after having recommended to the several States a cession of these lands to the General Government, by a resolution of October 10, 1780, among other regulations, provided, "that the unappropriated lands which may be ceded or relinquished to the United States, pursuant to the recommendation of Congress of the 6th day of September last, shall be disposed of for the common benefit of the United States." This recommendation and pledge were met by the several States with that spirit of disinterestedness which distinguished the age, and in the course of a few years, the States of New-York, Virginia, Massachusetts, Connecticut, South Carolina and North Carolina, ceded



to the General Government almost the entire western country. In 1802, a further cession was obtained by an agreement with Georgia. The arrangements relating to these cessions were entered into with great care and deliberation. Congress, by the ordinance of July 13, 1787, in relation to the Northwestern Territory, gave an assurance that the trust resulting from the cessions which had been, or might be made, would be faithfully and wisely executed. By this celebrated ordinance, which was the work of a distinguished citizen of Massachusetts, who yet lives to witness the results of his sagacity and patriotism; the blessings of a free government, a liberal public provision for education, and a perpetual exclusion of slavery were secured to the persons who should settle on these lands.

The ceding States on their part, in order to prevent a recurrence of that inequality which induced them to make the cession, and as if in anticipation of the claims now so strongly urged, accompanied their deeds of cession, with conditions so expressed as to leave no room for doubt as to their intentions.

The expressions in the deed of Massachusetts are, that they "transfer, &c. to the United States of America, for their benefit, Massachusetts inclusive," &c. The language of Virginia, whose cession was prior to that of Massachusetts, conveys the same idea in a still more explicit form. It is as follows: "All the lands within the territory——shall be considered as a common fund, for the use and benefit of such of the United States as have become or shall become members of the confederation or federal alliance of said States, Virginia inclusive, according to their usual respective proportions in the general charge and expenditure, and shall be faithfully and *bona fide* disposed of for that purpose, and for no other use or purpose whatsoever."

The form of expression varies somewhat in the deeds of the other States, but all contain a clear expression of an intention to cede the lands to the General Government for the common benefit.

Upon the formation of the Constitution, this great interest was not overlooked. By sect. 3, art. 4, it is provided that "the Congress shall have power to dispose of, and make all needful rules and regulations respecting the territory or other property belonging to the United States."

In the opinion of the committee, there can be no question as to the rights and duties growing out of these proceedings. For all beneficial purposes, the several States are the owners of these lands, as a common fund. The power of Congress is merely that of a trustee, bound to administer the fund for the equal benefit of all. The General Government has no more right to distribute this fund partially—to give to one State and withhold from another—than the trustee of an hereditary estate has to appropriate it unequally among the heirs. It does not affect the right in this case, that if Congress should choose to disregard these obligations, there is no tribunal before which it can be arraigned, and compelled to do justice.

The public lands not included in the cessions of the States, were obtained by the purchase of Louisiana and the Floridas. In regard

to these, there would seem to be no room for question. They have been paid for out of common funds, and all analogy and reasoning concur in considering them as common property. If any additional reason were wanting, it would be found in the fact that the proceeds of the sales of all the public lands, fall about ten millions of dollars short of repaying the money which has been paid for them, with interest.

The committee have already remarked, that a claim is made by the new States to the whole of the public lands. As this claim varies very much as it is advanced by different States or individuals, they propose to make a statement of the nature and extent of these demands, somewhat in detail, and to accompany the statement with some remarks upon their validity.

It is said that it is inconsistent with the sovereignty of the States, that a foreign power (and such the advocates of this doctrine are pleased to denominate the General Government,) should be the owner of lands within their limits. There is much in the theory of State rights and State sovereignty, as expounded by some modern politicians, at once puzzling and alarming. It is very difficult to comprehend the reasons by which they support their doctrines; but it is quite easy to see that these doctrines, if adopted, would put a speedy end to the Union. Without, however, undertaking to discuss this argument in the abstract, it will be sufficient to remark, that the States interested in the present question, have no right to avail themselves of it. Their existence as States, is the mere result of the arrangements detailed in the former part of this report. It is in virtue of the compact entered into when the lands were ceded, that these States have been admitted into the Union—and they cannot deny the validity of what lies at the foundation of their political existence. Nor has any State ever acted in consistency with this doctrine; all are anxious to obtain grants from Congress, and every application is an admission of the title of the General Government. Besides, the title of individuals residing in these States, to their lands, is derived from Congress. The doctrine now under consideration, if true, would render all these titles invalid, and transfer the ownership of all the land to the several States, in their corporate capacity.

It is contended by some, that these lands were a fund set apart for the payment of the public debt, and that they should be given up to the several States, when that object is accomplished. It is difficult to perceive the force of this argument, when urged as a matter of right. It is in contradiction to the terms of the deeds of cession; and is unsupported by any evidence that such was the understanding, either of the General or State Governments. But if the ground of the argument were admitted, it would not support the conclusion which is attempted to be founded upon it. If the lands were appropriated as a fund for the payment of the public debt, or, as the argument is sometimes stated, of the debt of the revolution, then they are to be held until they have discharged the whole of this debt. Now it is well known, that the public lands have fallen far short of paying the debt of the revolution alone. The whole amount received from the sale of these

lands by the General Government is but about forty millions of dollars. The debt of the revolution was about two hundred millions. If this debt has been paid from other sources, the public lands are still holden, in equity, to reimburse that sum. When this sum of two hundred millions of dollars, with interest from the time of the revolution shall have been paid from the public lands, it will be proper to give this argument a fitting consideration.

Those who admit that the above positions are untenable, and a majority of the people of the new States may be included in the number, contend, that the lands are of very little consequence to the United States, hardly defraying the expense of their management; that the inhabitants of these States are poor, and the government sales drain the country of its money; that the surveyed lands remaining unsold, are refuse, and of little value; and that for these reasons, and to avoid the collisions which must be expected to arise from a mixed jurisdiction; the price of the lands ought to be greatly reduced, and all which have been surveyed and remain unsold for a limited time should be ceded to the several States where they are situated.

The grounds of this last claim will be better understood after a statement of the operation of the land system as now established, and the quantity and value of the lands.

The outlines of the present land system may be briefly stated as follows. The land is surveyed into townships six miles square, then divided into thirty-six sections of 640 acres each; these again are subdivided, until the whole (when requested by purchasers) is offered for sale in lots of 40 acres each. One section is reserved for the purposes of education, and the rest is sold at first at auction to those who will give more than one dollar and twenty-five cents per acre, and what remains is then sold at private sale for that price. To meet the wishes of every variety of purchasers, more than one hundred and sixty millions of acres have been surveyed, although less than thirty millions have been sold since the first establishment of the system. Including the sections set apart for the purposes of education, more than eleven millions of acres have, in the same period, been granted to the new States.

In the opinion of the committee, this system combines to every attainable extent, security of title, cheapness of price, certainty of boundaries, and a choice of soil and climate. It is in successful operation, and ought not to be disturbed.

The quantity of land belonging to the General Government, including that to which the Indian title is not extinguished, is more than one billion of acres—a domain large enough for the formation of empires. In estimating its value, it would not be correct to consider the whole as now worth the price by the acre, at which public lands are sold. The reason is, that no present market can be found for this immense quantity. It will probably take centuries to dispose of the whole. It would be a more accurate rule, to consider the annual sales as the interest or income of a certain amount of capital; in which case, the lands would be worth as much as a capital yielding that amount of interest. These sales now average three millions of dollars annually. In the year 1831

they exceeded that sum by more than half a million of dollars. The last year, owing to the frontier war and the cholera, they fell short of that amount by about the same sum. This interest of three millions, would give a present capital of fifty millions of dollars. But as population increases these sales will be constantly augmenting. Taking the increase of population as the measure of the increase of sales, (and an examination will show that the sales have hitherto increased in a much more rapid ratio,) the annual amount of these sales will double once in twenty-five years. That it will double much sooner is manifest from the fact, that of about forty millions of dollars received from the sale of lands since the organization of the government, six millions, being more than one-seventh of the whole, have been received from the sales of the last two years.

Should the proposed bill become a law, the annual distribution to which Massachusetts would be entitled, when the whole sales amount to three millions of dollars, would be \$127,225.41.

The annual receipt of this sum would be more valuable to the State than a capital of two millions of dollars, well invested, and this capital, it should be borne in mind, would be constantly increasing, in the ratio above stated. Should peace continue, there can be but little doubt that this fund could be relied upon as a permanent revenue in aid of all the purposes to which it is applicable.

It is true that the quantity of land will be constantly diminishing, as the sales go on, and that the whole will, in this way, be ultimately exhausted; but as this will be the work of centuries, it is, for all the purposes of political calculation, almost the same as if the quantity were inexhaustible.

The committee, in view of this statement, leave it to the wisdom of the Legislature to judge, whether the interest of the Commonwealth, in the public domain, is so trifling, that it is expedient to give it away to the people of the west. It may however, be proper to notice briefly what is said about refuse lands and the effect of the present land system in draining the country of money.

The argument of those who consider the unsold lands as of little value is, that if this were not the case, they would have been sold. The answer is, that the quantity in the market is so great that no purchasers can be found for the whole. Less than forty millions of acres have been disposed of since the establishment of the system, and more than one hundred and sixty millions have been surveyed. The lands have been purchased as fast as they have been wanted by settlers, and if the quantity in the market had been increased tenfold, the amount of sales would not have perceptibly varied. This refuse land, as it is called, lies in a region containing probably less of waste land than any other portion of the globe; and the quantity in any State or territory, bears a very exact proportion to the newness of the settlements. For instance, Ohio has now but about five millions of acres remaining unsold, and these are selling rapidly; while Illinois has more than thirty-three millions—and yet Ohio has more poor land, in proportion to its territory, than Illinois. It is to be further considered, that the enhanced value given to inferior soils by the settlement of

the country, will create a constant demand for those tracts which are passed over by the first purchasers—so that nearly the whole will in time be disposed of at the present prices.

The complaint of draining the country of money, by the operation of the present land system, would probably be wholly removed, by the passage of the proposed bill; at least it would leave the new States as well off in this respect, as the old. The dividend and the seventeen and a half per cent to which they would be entitled, would probably amount to as much as the sum which the citizens of any new State would pay to the general government annually, for the purchase of land. The rest of the purchases must be made by emigrants, who would obtain their money from the other States. It is well known, that in New-England, a large proportion of the slowly accumulated earnings of our farmers, is expended in the purchase of new lands, and in the outfit of those who emigrate.

Should the proposed bill become a law, there is no danger that the system thereby established, will be lightly abandoned. Now there is ground for constant apprehension, that the whole will be sacrificed to the promotion of some party object. But once admit the States to their just share in this great treasure, and no partizan will be bold enough to propose its relinquishment, unless unforeseen events should present the subject in a new aspect.

There is another benefit which would result from the proposed distribution to which the committee attach great importance. At the present time, when the attachment of the people to the Union is evidently weakened, when the benefits and disadvantages of a separation of the States have become the subject of cool and ordinary calculation; whatever has a tendency to revive an attachment to the general government, and to make every citizen feel that he has a direct interest in its preservation, is deserving of special encouragement. No measure of public policy can be imagined, better adapted to this object, than the proposed distribution. Other governments make themselves known by the scrutiny of the excise-man, and the presence of the tax-gatherer. We should be reminded of the existence of our own, by the bounty which we should annually receive at its hands. It is hardly possible, that any State would willingly forego the blessings of such an union, for the desperate hazard of a separate independence.

There remains for consideration one other view of the subject, which in the opinion of the committee, is far more interesting than any which has yet been contemplated. They refer to the effect of a relinquishment of these lands, by the general government, upon the agricultural, and through them, the other interests of this Commonwealth. If either of the various projects heretofore adverted to, should be carried into effect, the title to all the public lands would vest in States within whose bounds they lie, and that at no remote period. It is not difficult to foresee the policy, which would, in all probability, be pursued in their management. Large tracts would be reserved, for the creation of a fund adequate to all the objects of public expenditure, and the sale of the remainder



hastened as fast as practicable. Each State would be anxious to attract settlers to itself, and in the competition which would ensue, lands would be sold for much less than their present price. It is already proposed to make donations of farms to actual settlers. As the work of settlement went on, the reserved lands, and the proceeds of those which might be sold, even at a reduced price, would constitute a fund, which would eventually be sufficient to defray every public expenditure.

The effect of such a state of things, upon the prosperity of this Commonwealth, can not be contemplated without dismay. New-England is often compelled to listen to the taunt of possessing a bleak climate and a barren soil. In comparison with the western and south western States, such is undoubtedly the fact. Our long and severe winters, our uneven surface, our rocky, and in some places sterile soil, the necessity we are under of resorting to the laborious and expensive process of manuring—all place us in striking contrast with the inhabitants of the milder regions of the west, where the charge of providing for winter is hardly regarded, and where the manure heap is considered by the cultivator as a nuisance. Until recently, our readier access to market, gave us a superiority, which counterbalanced these advantages—but the recent improvements in transportation by means of roads, canals and railways have, for all the purposes of competition, brought the whole western world to our doors. A given amount of produce can now be brought from Buffalo to this city, for a sum considerably less than it will cost to transport the same over land, from Connecticut river to the same place—so that a farm in the vicinity of Buffalo, is worth more by the acre, to raise any thing for the Boston market, that will admit of transportation, than the same quality of land on the Connecticut river. The same is true, with but little deduction, in regard to all the land on the shores of Lake Erie, and the navigable waters connected with it.

Under the present land system, it has required all the industry and sagacity for which the Yankee farmer is distinguished, to sustain himself against this fearful competition. That he has not suffered much more, is owing to the introduction and establishment of manufactures. The committee, without going into a detail of the reasons of their opinion, which will readily suggest themselves to the mind, would state as the result of a careful consideration of the subject, that but for the aid afforded by the American System, both the property and population of our agricultural districts would have depreciated to a great extent, producing such embarrassment and distress as has not been known in any portion of this country, by the present generation. It is now proposed to prostrate these manufactures, by withdrawing that protection which is essential to save them from undue foreign competition; and while undergoing the shock occasioned by this measure, the farmer is called upon to prepare for the consequences of the proposed change in the land system. The committee are anxious to invite the serious attention of the good people of this Commonwealth to this anticipated state of things. They would request of them to

institute a comparison between themselves and the western cultivator, as they would both be then situated, in respect to price of land, soil, climate and taxation; to add to these considerations the fact, that while their own farms would be at best stationary in productiveness and price, the farmer of the new States would be growing rich by the rise in the value of his land alone, and then ask themselves how they will be able to compete with him in a market equally accessible to both parties?

It is difficult to attempt to estimate the effect of such a competition upon the value of our farms, but the committee are unable to perceive why the result must not be; that large tracts of land now under cultivation would be abandoned, unless for occasional pasturage; that other large bodies would barely defray the expense of their management, and of those remainder, the value, and consequently the price, would be very much reduced.

The committee do not make these remarks from any feeling of hostility to the West, or from a wish to retard them in their growth and prosperity. Nor are they insensible to the advantages resulting even to the emigrating States, from this eligible resort for their surplus population. So long as the inducements to emigration are as strong as they are now; in other words, so long as it is true that a common laborer can, from the earnings of a single year, save enough to purchase at the West a farm sufficiently large to maintain a family, labor must with us receive a generous reward. It will always be true, that the employer will be more dependant upon the laborer than the laborer upon the employer. The committee rejoice to believe that this consideration is alone sufficient to refute the objection, that our manufactories will create monopolies, and produce an undue dependance of the poor upon the rich. But while they would thus endeavor to maintain the most amicable relations with their brethren at the West, containing as it does some branch of almost every family in New-England, they can see no reason why we should be called upon to relinquish what is our undoubted right, when such a relinquishment would be almost necessarily fatal to our essential interests. Massachusetts joined with the other States in ceding these lands, that the several members of the confederacy might be placed on equal grounds. She is now called to relinquish her remaining interest in them, in order that this inequality may be restored.

If any thing were wanting to confirm the views of the committee on this subject, it would be found in the consideration, that the proposed change would be seriously injurious to the western States. Aside from the increasing value of their lands, the main source of the wealth of these States is the high price of their produce. For the most of this produce the market is chiefly in the northern and middle States, and is almost entirely dependant upon our manufacturing establishments for its support. In the nature of things, such a market can only exist where large masses of society are withdrawn from agricultural pursuits, and the population is dense and prosperous. Such is the present condition of the New-England and the middle States. The leading policy of many

of the western politicians seems to be, to withdraw this population from its present situation and locate it on their wild lands. Could they succeed, the main result would be, that while the amount of surplus produce would be greatly increased, the market for it would be almost utterly destroyed.

It does not destroy the force of this argument, that there is little or no transportation of produce from the more remote regions of the west to the manufacturing States. They are not the less benefitted on this account. Those who live nearer to these States can the more readily supply this market. In the purchases which they make for this purpose, however, they fix the price of all the articles which they procure, and the drain which their purchases occasion, leaves to the remoter regions the entire market for ordinary home consumption, and the supply of the wants of the emigrants. In this way, their surplus produce finds a ready sale at a high price. In confirmation of this, it may be remarked, that ever since the formation of a market by the establishment of manufactories, and the construction of the means of access to that market, the produce of the new countries has commanded a price several times as high as it bore before that period.

In the extended investigation which the committee have given to this subject, they have not been influenced entirely by a consideration of its bearing upon the resolutions of the State of Tennessee. Deeming the question one of great moment, and which has hitherto but partially attracted the attention of our citizens, they have gone much more into detail than they otherwise would have done. This examination, however, will enable them to express their views in regard to the resolutions themselves, in a few words.

These resolutions propose in substance to sell all the surveyed and unsold lands within the several States and Territories, at reduced prices, and to appropriate the proceeds of future sales to the education of American children.

So far as these resolutions recognize the title of the General Government to the public lands, and the right of Congress to distribute the proceeds of their sale among the several States, they coincide with the views maintained by the committee in the former part of this report. But the committee think that the purpose for which the States are to be allowed to appropriate the money, is too limited, and that the sale of the lands at the reduced prices evidently contemplated by the resolutions, would, for the reasons already stated, be an injudicious proceeding. They have no doubt that the time will come, when some portions of the land must be sold for less than the present minimum price, but this object is too insignificant to be put in competition with the danger of disturbing the existing land system. They therefore respectfully recommend, that this Legislature do not concur with the State of Tennessee in the measures recommended by these resolutions.

The committee, however, are of opinion, that something should now be done by this Commonwealth in relation to this subject. They believe that the attention of our own citizens ought to be ex-



cited—that all proper legislative action should be adopted—and every suitable exertion made to procure the co-operation of other States, whose interests are identical with our own. In this way, we may reasonably hope to obtain from the national Legislature an acknowledgment of our just claims, and ultimately succeed in effecting an arrangement which shall secure the rights and interests of every portion of the Union.

For this purpose, and in view of the various considerations embraced in this report, the committee would close their labors by respectfully recommending to the Legislature the adoption of the resolutions which are herewith submitted.

All which is respectfully submitted.

For the committee,

D. WELLS.

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## RESOLVES

### In relation to the public lands of the United States.

*Resolved*, That as the public lands of the United States were acquired either by cessions from the several States, for the general benefit, or by purchase by the General Government from the common funds, they ought to be regarded as the property of the whole United States; and no State has an exclusive title or peculiar interest in any portion of the same.

*Resolved*, That Congress is trustee of the public lands, for the equal benefit of all the States—and, as such trustee, cannot, without a violation of duty and moral obligation, make any partial disposition of the same; and that a surrender of these lands to some of the States, without any, or for an adequate consideration, would be an infringement upon the rights of the rest.

*Resolved*, That the present land system combines, to every attainable extent, security of title, cheapness of price, certainty of boundaries, and choice by the purchaser of soil and climate—and being in successful operation, ought not to be disturbed.

*Resolved*, That this Legislature disapprove of the several plans which have been proposed for reducing the price of the public lands; inasmuch as the price of land is now so low, as to put it in the power of every industrious citizen to purchase a farm—and as the vast quantity of land in the market, and not the quality of the soil, is the reason why so much of it remains unsold.

*Resolved*, That this Legislature approves of the bill which passed both Houses of the Congress of the United States, for the distribution of the proceeds of the sale of the public lands among the several States, in proportion to their representative population, and that our Senators be instructed, and our Representatives requested, to use their exertions to procure the passage of this bill into a law.

*Resolved*, That His Excellency the Governor, be requested to transmit a copy of these resolves, and the report preceding them, to the President of the United States, the Governors of each of the States and Territories, and to each of the Senators and Representatives of this Commonwealth, in Congress.

HOUSE OF REPRESENTATIVES, March 28, 1833.

Read twice and passed. Sent up for concurrence.

W. B. CALHOUN, *Speaker*.

IN SENATE, March 28, 1833.

Concurred.

B. T. PICKMAN, *President*.

March 28, 1833.

Approved.

LEVI LINCOLN.

A copy. Attest

EDWARD D. BANGS,

*Secretary of the Commonwealth.*



## APPENDIX.

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( A )

### **A resolution relative to the public lands of the United States.**

*Resolved, by the General Assembly of the State of Tennessee,* That our Senators in Congress be instructed, and our Representatives requested, to use their exertions to have all the vacant unsold lands owned or claimed by the United States, in any of the States or Territories, sold, as soon as the same can be reasonably done at a graduated price.

*Resolved,* That our Senators and Representatives be requested to use their endeavors to have the nett proceeds of all the public lands hereafter sold, set apart by law as a permanent fund for the education of the American children, and that such fund be distributed to the States and Territories, according to such rates as may be deemed equitable and just.

*Resolved,* That the Governor be requested to furnish our delegation in Congress with a copy of the foregoing resolutions; and that he transmit a copy to the Governors of the several States, with a request to have the same submitted to their Legislatures.

F. W. HERLING,

*Speaker of the House of Representatives.*

BERCHET DOUGLASS,

*Speaker of the Senate.*

*Adopted December 21, 1831.*

SECRETARY OF STATE'S OFFICE, }  
*for the State of Tennessee.* }

I certify the foregoing to be a true and perfect copy of a resolution of the General Assembly of the State of Tennessee, relating to the public lands of the United States, from the original on file in the Secretary's office.

SAM'L G. SMITH,

*Secretary of State.*

( B. )

**Copy of Land Bill as it passed the Senate.**

*A bill to appropriate for a limited time, the proceeds of the sales of the public lands of the United States.*

*Be it enacted, &c.,* That from and after there shall be allowed and paid to each of the States of Ohio, Indiana, Illinois, Alabama, Missouri, Mississippi, and Louisiana, over and above what each of the States is entitled to by the terms of the compacts entered into between them, respectively, upon their admission into the Union, and the United States, the sum of 12½ per centum upon the nett amount of the sales of the public lands, which subsequent to the day aforesaid, shall be made within the several limits of the said States; which said sum of 12½ per centum, shall be applied to some object of internal improvement or education, within the said States, under the direction of their respective Legislatures; *provided*, that said dividend and distribution, or the proportion of any State therein, shall be in nowise affected or diminished, on account of any sums which have been heretofore, or shall be hereafter, applied to the construction and continuance of the Cumberland road, but that the same shall remain, as heretofore, chargeable on the two per cent fund, provided for in the compacts with the new States.

**SEC. 2.** *And be it further enacted*, That after deducting the said 12½ per centum and what by the compacts aforesaid has heretofore been allowed to the States aforesaid, the residue of the nett proceeds of all the public lands of the United States, wherever situated, which shall be sold subsequent to the said shall be divided among the twenty-four States of the Union, according to their respective representative population, as ascertained by the last census, to be applied by the Legislatures of the said States to such objects of education, internal improvement, colonization of people of color, or reimbursement of any existing debt, contracted for internal improvement, as the said Legislatures may severally designate and authorize. *Provided*, that nothing herein contained shall be construed to the prejudice of future applications for the reduction of the price of the public lands, or to the prejudice of applications for a transfer of the public lands, on reasonable terms, to the States within which they lie, nor to impair the power of Congress to make such future disposition of the public lands or any part thereof as it may see fit.

**SEC. 3.** *And be it further enacted*, That the said several sums of money shall be paid at the treasury of the United States half-yearly, to such person or persons as the respective Legislatures of the said States may authorize and direct.

**SEC. 4.** *And be it further enacted*, That this act shall continue and be in force for the term of five years from the said unless the United States shall become involved in war with any

foreign power, in which event, from the commencement of hostilities, this act shall cease and be no longer in force. *Provided nevertheless*, that if prior to the expiration of this act, any new State or States shall be admitted into the Union, the power is reserved of assigning by law to such new State or States, the proportion to which such new State or States may be entitled upon the principles of this act, and upon the principles of any of the compacts made as aforesaid with either of the new States first mentioned.

SEC. 5. *And be it further enacted*, That there shall be granted to each of the States of Mississippi, Louisiana, and Missouri, the quantity of five hundred thousand acres of land; to the State of Indiana 115,272 acres; to the State of Illinois 20,000; and to the State of Alabama 100,000 acres of land, lying within the limits of said States respectively, to be selected in such manner as the Legislature thereof shall direct, and located in parcels conformably to sectional divisions and subdivisions, of not less than three hundred and twenty acres to any one location, on any public land subject to entry at private sale; which said locations may be made at any time within five years after the lands of the United States in said States respectively, shall have been surveyed and offered at public sale, according to existing laws.

SEC. 6. *And be it further enacted*, That the lands herein granted to the States above named, shall not be disposed of at a price less than one dollar and twenty-five cents per acre, until otherwise directed by law, and the nett proceeds of the sales of said lands shall be faithfully applied to objects of internal improvement within the States aforesaid respectively, namely, roads, bridges, canals, and improvement of water-courses and draining swamps; and such roads, canals, bridges, and water-courses when made or improved, shall be free for the transportation of the United States mail, and munitions of war, and for the passage of their troops, without the payment of any toll whatever.

( C. )

*Statement showing the dividend of each State (according to representative population,) in the proceeds of the public lands, after deducting therefrom seventeen and a half per cent as an additional dividend for the States in which the public land is situated. The amount of the annual sales being estimated at \$3,000,000.*

STATES.	Representative population—1880.	Share in proceeds of public lands.
Maine, .....	397,437	\$83,252 80
New-Hampshire, .....	269,326	56,134 37
Massachusetts, .....	610,408	127,225 41
Vermont, .....	280,657	58,496 04
Rhode-Island, .....	97,194	20,257 70
Connecticut, .....	297,665	62,040 93
New-York, .....	1,918,553	399,875 09
New-Jersey, .....	319,922	66,679 86
Pennsylvania, .....	1,348,072	280,972 23
Delaware, .....	75,434	14,822 86
Maryland, .....	405,843	84,587 97
Virginia, .....	1,023,503	213,323 98
North-Carolina, .....	639,747	133,339 49
South-Carolina, .....	455,025	94,838 75
Georgia, .....	429,811	89,583 51
Alabama, .....	262,508	54,713 32
Mississippi, .....	110,358	23,001 42
Louisiana, .....	171,694	35,785 38
Tennessee, .....	625,263	130,320 66
Kentucky, .....	621,832	129,605 56
Ohio, .....	935,884	195,061 96
Indiana, .....	343,031	71,496 36
Illinois, .....	157,148	32,753 43
Missouri, .....	130,419	27,182 69

*a resolution of the House of Representatives*

SCHOOLS.	Education, or	Lands appropriated for seats of govern- ment.	Saline reservations.	Aggregate appropria- tions for each State and Territory.
	For religious and chari- table insti- tutions.			
6	† 43,525	.....	.....	1,737,838
4	.....	2,560	23,040	1,012,592
7	.....	2,560	206,128	1,712,225
9	.....	2,449	46,080	1,181,248
4	.....	1,280	.....	733,244
0	§ 23,040	1,620	23,040	1,216,450
3	.....	.....	.....	920,053
3	.....	10,000	.....	599,973
8	.....	.....	.....	996,338
4	23,040	1,120	.....	947,724
8	89,605	21,589	298,288	11,057,685

proceeds applied to literary purposes.

James and the Ohio company.

ce. April 2, 1832.  
ELIJAH HAYWARD.



100

**IN ASSEMBLY,**

**April 24, 1833.**

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**REPORT**

**Of the Commissary-General on the petition of sundry inhabitants of the town of Canandaigua, for the sale of the State Arsenal, and also the remonstrance of others against the sale.**

*To the Honorable the Assembly of the State of New-York:*

The Commissary-General, to whom was referred the petition of sundry inhabitants of the town of Canandaigua, in the county of Ontario, for the sale of the State Arsenal located in said town, and the remonstrance of others, inhabitants of said town, against the sale of the arsenal building,

**RESPECTFULLY REPORTS:**

1. That the Arsenal at Canandaigua is now occupied as a place of deposit for field ordnance and other munitions of war; that the arming and equipping of the militia of the Union progressively by the General Government, will require places of deposit for the arms and equipments furnished.

2. That the State Arsenal in the city of New-York being filled, cannot accommodate any additional arms unless the building be extended by an addition to it; that the Arsenal at Albany is situated in a similar manner; and that the Arsenal at Batavia will receive an increased deposit on the next appropriation of small arms for this State.

3. That in the opinion of the Commissary-General, the Arsenal at Canandaigua will shortly be required for a depot of small arms

in addition to the field artillery and other munitions now stored there. He would therefore respectfully recommend to the honorable the Legislature not to grant the prayer of the respectable petitioners at this time,

All which is respectfully submitted.

HENRY ARCULARIUS,  
*Commissary-General.*

STATE OF NEW-YORK, }  
COMMISSARY-GENERAL'S OFFICE. }  
*New-York, April 23, 1888.*

**No. 329.**

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**IN ASSEMBLY,**

**April 25, 1833.**

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**MESSAGE**

**From the Governor, returning the bill entitled “An act relative to cullers of staves and heading in the county of Rensselaer,” with objections thereto.**

**TO THE ASSEMBLY.**

**GENTLEMEN,**

After mature consideration of the bill entitled “An act relative to cullers of staves and heading in the county of Rensselaer,” I have deemed it my duty to withhold from it my signature and return it with my objections to the Assembly, wherein it originated. The second section of this bill contains, as I apprehend, an unnecessary and injurious restriction on trade in the article of staves and heading.

Previous to the enactment of the Revised Statutes, the law prohibited the exportation of staves and heading out of this State to any *foreign market*, unless they had been culled in the manner therein directed. The Revised Statutes prohibit the exportation of them, by sea, from this State to any port without the territorial limits of the United States, unless they had been inspected and declared merchantable. I am inclined to think that the expression “*foreign market*” used in the law previous to the revision, is of similar import to the expression “*any port out of the territorial limits of the United States*” in the Revised Statutes; if so, the bill now presented to me for my approval contains a provision which has not been heretofore sanctioned by our Legislature, and which, by reason of its effects upon an extensive branch of business, is interesting to a considerable portion of the people of the State.

The section of the proposed law provides, that no staves and heading shall be exported from this State, by sea, to any port out of the territorial limits of this State, unless they shall be inspected and culled in the manner provided by the Revised Statutes, and on such inspection shall be declared merchantable. My objection to this provision of the law is not that it requires staves and heading to be inspected, but that it prohibits all such as are not merchantable according to the provisions of the inspection law from being carried by sea, under any character whatever, to a market without the territorial limits of this State.

According to the inspection law, only the following description of staves and heading are merchantable, viz:

Butt staves, made of good white oak timber, of specified dimensions:

Pipe staves, made of good white oak timber, of specified dimensions:

Hogshead staves and heading, made of good white oak timber, and red or rock oak hogshead staves, of specified dimensions: and

Ash barrel staves made of good white oak timber, of certain dimensions.

All staves and heading not of the precise dimensions designated in the law, even if made of the best quality of white oak timber, and all staves and heading made of any other kind of timber than white oak, (except hogshead staves of red and rock oak,) whatever be their dimensions, or however excellent their quality in other respects, must be declared, on inspection, not to be merchantable, and by the operation of the proposed bill, if it becomes a law, would be confined almost exclusively to this State for a market. Ash staves, in considerable quantities, are brought to market in this State, but none of them under the proposed law can be carried by sea beyond its territorial limits. Staves brought from other States into the port of New-York, or from Ohio or Vermont through the canals, can not be re-exported, or carried from the State again by sea, unless they should be found, on inspection here, to be of the particular timber and dimensions specified in our laws. Our inspection laws have not, I believe, except in the single article of refuse shingles, imposed any restrictions on any kind of lumber, destined to a market in another State, that are not imposed upon it when sold in our own markets, and no streng

reasons have occurred to me for a departure, in the article of staves and heading, from the general rule adopted in regard to other descriptions of lumber. The staves and heading annually brought to market, which are not merchantable under our laws, are not small in amount, nor inconsiderable in value; they are estimated to be about one million five hundred thousand, by those who are acquainted with this branch of business. The demand for them, for consumption within the State, is, I believe, far short of this quantity. If the bill before me should become a law, it is probable that the quantity manufactured would bear nearly the same proportion to the good staves that they now do; but if they could not be carried out of the State, by sea, a much less amount of them would be brought to market, otherwise there would be an over supply for the demand. The effect of the proposed law would, therefore, in my opinion, be injurious to the interest of those employed in making staves and heading; the business of transporting them to market would be lessened, and the tolls on the canals somewhat diminished. In my judgment the benefits to be derived from the proposed change in the existing law on this subject would not compensate for the injury that would be sustained by the restriction it imposes on this branch of trade.

The objection to circumscribing the market for this article of merchandize I the more readily entertain, from the consideration that a fit remedy for the evil this bill is designed to prevent, may, in my opinion, be applied without the sacrifice which this mode of effecting it seems to involve. The object of this bill is to have the quality of the staves ascertained by competent inspectors in order that those who deal in them may be shielded from imposition. This might be effected, it appears to me, by directing all staves and heading to be inspected, and allowing those which do not pass inspection to be exported as culls; or by so modifying the law as to make several qualities and include in the least valuable kind a considerable portion of those which are now rejected as culls. The inspection laws of the several States differ from ours in the description of staves which are allowed to pass inspection. Many that are rejected under our law would be passed as prime staves under the laws of some other States. It is certainly unwise to fix the standard of inspection so high as to exclude a valuable part of any kind of property from the description which is declared merchantable, and then prohibit the sale in the domestic or foreign market of the part thus rejected.

If however it should, on a full view of this subject, be deemed proper to make the change in the law proposed by the bill before me, it is respectfully submitted, whether a due regard to the interest of those who have large quantities of this article on hand does not require that they should be allowed some little time to accommodate their business to the new state of things which will result from such a change. They ought not to be suddenly deprived of the ordinary market which they have heretofore enjoyed.

I am the more inclined to submit this subject again to the consideration of the Legislature, because the title of the bill in which this important alteration in the law is made, was not such as was best calculated to apprise those whose interest and pursuits are to be effected by it, and who might be desirous of making their views known to the Legislature, that the matter was to be considered and acted on by that body. The course I have deemed it my duty to take will afford an opportunity to such as desire it, of conferring with their representatives, and making known to them their views of the effects and bearing of the alteration in the law upon the interests of the State, before the final disposition of the subject. I therefore return the before named bill, with an imperfect statement of some of the principal reasons which have influenced me in withholding from it my approval.

W. L. MARCY.

*Albany, April 25, 1833*

**No. 330.**

**IN ASSEMBLY,**

**April 26, 1833.**

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**REPORT**

**Of the committee on state prisons and the penitentiary system, relative to the Mount-Pleasant state prison.**

The committee on state prisons and the penitentiary system, beg leave to

**REPORT:**

That early in the present session, the inspectors of the state prisons at Auburn and Mount-Pleasant made their annual reports, and communicated them to the honorable the Senate, and they were referred to the appropriate standing committee of that body, with an understanding that all the necessary legislation on the subject of the prisons would be originated in that house.

At a subsequent day, the select committee appointed on the part of this house at its last session, made a report, which was referred to your committee, and which, with the annual reports of the inspectors, the committee have had under consideration. After the report of the select committee was referred, the agent of the prison at Mount-Pleasant was in this city, and appeared anxious that your committee should make some inquiries into the management and concerns of that prison, and a resolution was accordingly introduced, authorising the committee to send for persons and papers. Under this resolution, the committee examined the agent, the chaplain of the prison, a gentleman residing at Sing-Sing, who had been employed as a keeper in that prison, and one pardoned convict. At this stage of their inquiries, an interview took place between the select committee of the last session



and your committee, and after an interchange of sentiments on the subjects connected with the Mount-Pleasant prison, it was concluded that the interests of the prison could be promoted, and the existing causes of complaint could in all probability be removed, by adopting the amendments to the law regulating the appointment of the under keepers by the inspectors, instead of the present mode, authorising the appointment of two additional inspectors, and providing for the erection of a mess-room, and recommending to the inspectors the hiring out of the prisoners to contractors.

With a belief on the part of the committee, that this course would tend to the advancement of the true interests of the prison, the committee beg leave to offer the following resolution:

*Resolved*, (if the Senate concur,) That it be recommended to the inspectors of the state prison at Mount-Pleasant, to contract for the labor of the prisoners at a per diem compensation, as soon as they can do so on advantageous terms.

**IN ASSEMBLY,**

**April 26, 1833.**

**COMMUNICATION**

**From the Commissioners of the Canal Fund, in relation to deficiencies in the revenues of the Chemung canal.**

**CANAL ROOM, }  
April 26, 1833. }**

**TO THE ASSEMBLY.**

The Commissioners of the Canal Fund respectfully represent to the Legislature, that there are no funds at their disposal to pay the interest on the debt created for the construction of the Chemung canal, or to pay the expenses of keeping the said canal in repair.

The act for the construction of the Chemung canal, chap. 135, of the session of 1829, authorised a loan of \$300,000. The act of the last session, chap. 164, authorises a further loan of \$16,000. These two sums are exhausted, leaving a debt of \$316,000 for the construction of the canal, the interest upon which is to be provided for, and amounts annually to ..... \$15,800

There are two collectors and two superintendents on said canal, at salaries of \$500 each, which is ..... 2,000

The repairs cannot be estimated with much accuracy by the Commissioners of the Canal Fund, but may amount to ..... 12,000

**Making a total of ..... \$29,800**

From this is to be deducted the tolls which may be received upon the Chemung canal, the amount of which the Commissioners have no means of estimating.

Unless the deficiencies in the revenue of the Chemung canal are provided for, by being made a charge upon the general funds of the State, or by further loans, the Commissioners will not have the means of paying the quarterly interest which becomes due on the first of July next, or of paying the expenses which are indispensable to keep the canal in a navigable state.

All which is respectfully submitted.

A. C. FLAGG, *Comptroller*.

JOHN A. DIX, *Secretary*.

GREENE C. BRONSON, *Att'y Gen.*

**No. 332.**

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**IN ASSEMBLY,**

**April 29, 1833.**

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**REPORT**

**Of a majority of the committee on the judiciary, on  
the petition of Margaretta Obrigon.**

Mr. Livingston, from a majority of the committee on the judiciary, to which was referred the petition of Margaretta Obrigon, of the city of New-York, praying for a divorce,

**REPORTED:**

That it appears from the petition and papers accompanying the same, that the petitioner was married to one Ventura Obrigon on the 15th day of November, 1831; that the marriage ceremony was performed by Felix Varela, pastor of Christ's church, in presence of several witnesses; that soon after the marriage, Obrigon exhibited symptoms of insanity, and his conduct became such that it was unsafe for the petitioner to remain with him, and on the 5th day of January, 1832, he was committed to the Lunatic Asylum at Bloomingdale, where he has since remained, with every indication of confirmed lunacy.

At the time of the marriage the petitioner was young and an orphan, residing with her mother, Eliza Ann Hurry, who had brought her up in great indulgence and retirement from the world, and in great ignorance of men and manners; from these causes, the petitioner alleges, she was easily deceived and drawn into this marriage by the "astuteness of Obrigon and the connivance and misrepresentations of his friends."

Mr. Ventura Obregon is a foreigner, a native of Mexico, and has held the office of vice-consul of the Mexican government in the city of New-York. It is also alleged that the complaint under

which he is now suffering is hereditary in his family, and that a brother of his committed suicide not long since while in a state of mental aberration.

It is not improbable that Obrigon was laboring under the incipient stages of a malady so terrible, at the time of the marriage, yet it must have been so slight as not to be perceptible to the bride, her friends, or the very respectable pastor who solemnized the marriage.

This is the fourth petition for a divorce presented at this session of the Legislature, and the committee deem it proper on this occasion to state briefly to the House the reasons which compel them to come to a conclusion adverse to the prayer of the petitioner at more length, in order that the laws upon so important a branch of our domestic relations may be more generally diffused.

The practice of the Legislature upon this subject has been, with one exception, uniform. The first and only law that has ever passed, was that annulling the marriage of Eunice Chapman, in 1818. Our legislation has been so uniform, that neither during the colonial government, or under the Constitution of 1777, or the present Constitution, is there to be found any other cases of legislative divorce, and that case had no precedent, and has not been followed in practice.

The first law permitting divorces for any cause, was passed in 1787, and by which the court of chancery was authorised in one particular class of cases to dissolve the marriage contract. The Revised Statutes have extended the jurisdiction of that court to the following additional cases:

Where the parties, or one of them, had not at the time of the marriage, attained the age of legal consent.

Where the former husband or wife of one of the parties was living, and the marriage with such former husband or wife was then in force.

That one of the parties was an idiot or lunatic. In this latter case, the divorce can be obtained only on the complaint of the friends of the idiot or lunatic.

When the consent of one of the parties was obtained by fraud or force.

When one of the parties was physically incapable of entering into the marriage state.

Could the petitioner establish the allegation that her marriage was procured by fraud, then she can be relieved in the court of chancery, and legislative interference would be impolitic and unnecessary.

The committee are of opinion that neither party ought to be permitted to set up the insanity or idiocy of the other, at the time of the marriage or subsequent thereto, and have the contract dissolved for that cause. The only reason why the court of chancery is authorised to interfere on behalf of the idiot or lunatic, is for their protection on the ground that they were incapable of contracting, and when possessed of property, they ought to be protected from the wicked and heartless profligacy of those who would, by the matrimonial contract, attempt to gain possession of the person of a lunatic or idiot, to deprive them of their wealth.

The rule therefore ought to be inflexible, that the marriage will not be dissolved except upon the suggestions of the friends of those who are deprived of their reason. What but the most sordid avarice or depraved appetite could induce a person claiming to be rational to make such a contract? And if made, upon what principle of justice can they ask relief at our hands?

“An absolute and unconditional dissolution of the marriage contract by statute authority, without any previous judicial investigation, or trial by jury, as to the truth of the facts on which the divorce is asked,” would, in the opinion of your committee, be unwise, operate unjustly, and be fraught with danger to society.

It is the opinion of the committee, that the statutes have provided for all the causes for which divorces should be granted; and to extend them to the present case would set an example, which if followed, would be found productive of great evils. This case may be one of great hardship to the petitioner, but we feel it our duty to oppose any innovation upon the well settled practice and policy of our government.

In several of the States the practice prevails of granting legislative divorces, but we indulge the hope that it may never prevail here. We clearly believe “that the stronger authority and the

**better policy are in favor of the stability of the marriage union."**

**"That like all other great benefits, matrimony, in its universal application, produces many partial evils, and much individual suffering; but the sum of individual happiness, as well as the peace and order of society, requires that the nuptial tie should be indissoluble, except for the cases now provided for by law."**

**"That while the partial evils of indissoluble matrimony are sometimes witnessed and deplored, we ought to be consoled by the reflection that the peace and character of many thousands of families are preserved by the mutual forbearance and concession between husband and wife, which are induced by the ever impressive consideration that the voluntary tie which bound them can never be dissolved."**

**"History and experience unite to confirm the belief that the measure of purity or of profligacy in public morals, in all countries and under every form of government, is essentially graduated according to the degree of sanctity and stability of the marriage contract."**

**In adopting these opinions of the Counsel of Revision, in the case of Eunice Chapman, we feel conscious that they will be received as the result of long judicial experience, and as emanating from a body entitled to high consideration for their wisdom.**

**It has been urged upon the committee that a law might be passed in this case confirming jurisdiction upon the chancellor to grant relief in this instance. The committee, however, believe this would be still more objectionable than a general law, providing for divorces in all cases of idiotcy or insanity. Sound legislation requires laws to be general, for if we should start with sanctioning the principle to legislate for each case of individual hardship, our laws would be too multifarious and complex ever to be understood, and it would require a continued session to hear and determine complaints.**

**The committee commiserate the sufferings and misfortunes of the petitioner, but their duty requires them to offer for the consideration of the House the following resolution:**

**Resolved, That the prayer of the petitioner ought not to be granted.**

**No. 333.**

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**IN ASSEMBLY,**

**April 29, 1833.**

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**REPORT**

**Of the committee on colleges, academies and common schools, on the resolution from the Senate relative to the introduction of Washington Irving's abridged Life of Columbus into the common schools of this State.**

Mr. McKeon, from the committee on colleges, academies and common schools, to whom was referred the resolutions from the Honorable the Senate, relative to the introduction of Washington Irving's abridged Life of Columbus into the common schools of this State,

**REPORTED:**

That your committee are persuaded that the passage of the resolutions in question will have a direct tendency to raise the standard of education in the common schools of the State, and will at the same time be applauded throughout the Union as a most appropriate tribute on the part of this State to the eminent genius and meritorious labors of one of our native citizens. Your committee therefore have no hesitation in advising that this House concur with the Senate.

It is unnecessary that your committee should dwell on the superior merits, as a literary production, of Washington Irving's Life and Voyages of Columbus; it has already received the stamp of public approbation, not only in this country, but in every part of the civilized world, where English and American literature is known and valued. Some years of the life of the author were devoted to the preparation of the work; and by a most assiduous study of original and unpublished documents, which, by his personal re-

[Assem. No. 333.]



searches he discovered in the libraries of Spain, he has been enabled to correct the errors and supply the defects of preceding writers. The production is worthy of the time and labor that it cost. In the accuracy and fullness of its narrative, the beauty of its varied illustrations and the purity and vigor of its style, it is universally admitted to surpass all other works on the same subject; and your committee are assured that they but repeat the opinion of all competent judges in pronouncing it the most valuable contribution that has yet been made to the rising literature of our country.

The abridgment of this masterly work by the author, preserves in a great measure the excellencies of the original; the style is equally animated, correct and flowing, and while the substance of the narrative is retained, the interest is rather enhanced than weakened by the compressed form in which the facts are given. Its peculiar adaptation to the use of common schools will not be denied by any who have perused the work, and are competent to appreciate its extraordinary merits.

Your committee are unable to perceive on what grounds it has been supposed that in recommending a book of such acknowledged excellence to be read in the common schools, the Legislature will transcend the limits of their official duty.

The common school system is the creation of the Legislature, and is subject in all its departments to legislative control. The right of the Legislature to adopt such regulations as they may deem proper as to the organization of the schools, the qualifications of the teachers, and the course of instruction has never been doubted. It would seem a waste of time to refute an objection which assumes, that the same body which has the power to command and prescribe will exceed its authority by limiting itself to recommendation and advice.

Your committee are aware that the Legislature on several occasions have refused to compel by law the use of any particular work as a standard book in the common schools, and they are well satisfied that it would be unwise to interfere in this manner. The principle of the objection is, (to use the language of the late Secretary of State.) that "the adoption by law of any particular book, is a prohibition to future improvements." But it is obvious that this principle does not apply to a mere recommendation.

**The recommendation of the Legislature will no more operate as a bar to future improvements than a similar recommendation proceeding from individuals. It will be effectual only so far as it is supported by public opinion. The work recommended will continue to be read so long as it retains its peculiar value, and no longer; and will be superseded in the same manner, and with the same facility as other books are superseded, when another work on the same subject of superior merit, and equally adapted to the use of the schools, shall appear.**

**In conclusion, your committee cannot but express their earnest hope that the resolutions from the Senate will be sanctioned, and rendered effectual by the unanimous vote of this House.**

●



**No. 334.**

**IN ASSEMBLY,**

**April 8, 1833.**

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**REPORT**

**Of the committee on claims, on the petition of Francis Mayotte and others.**

Mr. Russell, from the committee on claims, to which was referred the petition of Francis Mayotte and others, heirs at law of Augustine Mayotte deceased, a Canadian refugee, praying compensation for the services of their said father in the war of the revolution,

**REPORTED:**

Though the facts attending the claim of the petitioners in this case are different, the principle involved is not distinguishable from that in the case of Toussaint Lavernway, herewith submitted, to which the committee beg leave to refer for the reasons which induce them to offer for the consideration of the House the following resolution:

*Resolved,* That the prayer of the petitioners, Francis Mayotte and others, ought not to be granted.



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